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Forty-fifth session
Items 94, 100, 104, 113 and 142
of the preliminary list*
ELIMINATION OF ALL FORMS OF
RACIAL DISCRIMINATION
IMPLEMENTATION OF THE CONVENTION
ON THE RIGHTS OF THE CHILD
ELIMINATION OF ALL FORMS OF
DISCRIMINATION AGAINST WOMEN
ENHANCING THE EFFECTIVENESS OF
THE PRINCIPLE OF PERIODIC AND
GENUINE ELECTIONS
DEVELOPMENT AND STRENGTHENING
OF GOOD-NEIGHBOURLINESS
BETWEEN STATES

SECURITY COUNCIL
Forty-fifth year

Letter dated 4 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices For 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Senegal. I have underlined passages of special relevance (see annex).

In view of the importance of this information, I have the honour to request that the text of the present letter and its annex be issued as an official document of the General Assembly, under items 94, 100, 104, 113 and 142 of the preliminary list, and of the Security Council.

(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

* A/45/50.

ANNEX*

101st Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

Printed for the use of the Committees on Foreign Affairs and Foreign Relations of the House of Representatives and the Senate respectively

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* Underlining has been added by the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations.

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SENEGAL

Senegal is a republic with an elected president, unicameral legislature, and governmental institutions modeled on French lines. Although Senegal has 17 legal political parties, the Socialist Party has dominated the political scene and controlled the Government since independence from France in 1960. Prime Minister Abdou Diouf automatically succeeded the retiring President Leopold Senghor in January 1981. Diouf was elected President in his own right in the regularly scheduled elections 2 years later, and his Socialist Party won 111 of 120 National Assembly seats. In the hotly contested presidential elections of February 1988 (the results of which continue to be disputed by the opposition), Diouf was declared reelected with 73 percent of the vote. In the concurrent National Assembly elections, the Socialist Party took 103 seats and the opposition Senegalese Democratic Party (PDS) 17 seats.

The Senegalese armed forces (about 15,000 men, including the paramilitary gendarmerie) are a professional, disciplined organization which traditionally maintains an aloofness from politics and is respected by the population. Due to heightened tensions with Mauritania, the armed forces assumed a higher profile in 1989, e.g., in restoring order in the Dakar area under the state of emergency declared in April-May. Civilian security forces are fairly well trained and generally respect the laws they enforce; those who do not face criminal prosecution.

Senegal has a mixed economy with a substantial private sector. Since June 1983, Senegal has actively pursued a structural adjustment program, with the support of the International Monetary Fund, the World Bank, and major bilateral donors, designed to liberalize the economy and stimulate economic growth. There is concern, however, about the short-term political impact of the austerity reforms, particularly in Dakar, where high unemployment and deteriorating social conditions contributed to marked opposition gains and civil unrest in the 1988 elections. The economy remained fragile at the end of 1989.

Events in 1989 subjected Senegal's democracy and its generally creditable human rights record to its most sustained test since independence, particularly the mass violence against ethnic Maurs origin. Strikes plagued the education sector during the first quarter of the year. The leader of the Senegalese Democratic Party, Secretary General Abdoulaye Wade, returned to Senegal in March after a long absence abroad. Wade, who disputes the legality of President Diouf's reelection in 1988, held party rallies and called for mass antigovernment demonstrations, which were promptly banned by the authorities. Some demonstrators turned out anyway, and street violence and vandalism broke out in Dakar on March 14 and on National Day, April 4. Subsequently, touched off by a fatal border shooting on April 9, there were several waves of violence directed against Mauritanians resident in Senegal and the declaration of a state of emergency. The violence resulted in scores dead in Senegal (and a similar rash of killings in Mauritania), the destruction of the greater part of Senegal's Maur-dominated small retail trade sector, a massive repatriation of populations by both countries, and both armies arrayed along their 500-mile border. Differences with other neighbors--a maritime border dispute with Guinea-Bissau and the breakup of the confederation with The Gambia--further raised the political temperature.

SENEGAL

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There was no evidence of any killings for political motives. However, government actions in both Senegal and Mauritania fueled the April unrest involving citizens of both countries. Senegalese authorities were slow to comprehend the scale of the violence directed against Maurs and their property. There has been no definitive public accounting of casualties, but senior Ministry of Justice officials estimated the number of dead at 80. Order was not restored until the army was called out, and a state of emergency imposed in the Dakar region.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Government and police officials in Senegal generally respect the section of the Criminal Code prohibiting physical abuse. Nevertheless, there are periodic accounts of occasional abuse (including beatings and denial of food, water, and clothing to prisoners) under interrogation during the period of custody ("guard a vue") between arrest and appearance before a magistrate.

Amnesty International (AI), with the consent of the Government, sent a team to Senegal in October to discuss charges of alleged torture of suspected Casamance separatists during the period 1982-1988. The Government refused to accept the delegation's suggestion that a special committee be established to investigate human rights abuses, saying that existing legal mechanisms were sufficient. The Government, however, publicly reaffirmed its opposition to torture and promised to improve oversight procedures in the courts and security forces to prevent abuses. AI's 1989 report notes that ill-treatment of prisoners by police in 1988 resulted in at least one death.

d. Arbitrary Arrest, Detention, or Exile

The constitutional prohibition against arbitrary arrest or detention is generally respected in practice. The Senegalese legal system is patterned after the French. A person suspected of a crime may be legally held without charge for 48 hours after arrest and may be held up to 72 hours if ordered by a public prosecutor. In fact this period of detention, during which the prisoner has no access to family or attorney, may be much longer.

Temporary detention or custody is permitted when civil authorities determine that there is a threat of civil disturbance or that a person is a threat to himself or others. Temporary custody is valid for a maximum period of 6 months, but it may be renewed for additional 6-month periods if the investigating magistrate certifies that this time is required to complete the investigation. There is no limit to the number of times it may be renewed. These laws are generally respected by law enforcement officials, and charges

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are formally and clearly drawn. By law, every person has access to legal counsel during every step of the legal process from the time his case is presented to a magistrate. Persons with means will have private attorneys. The court may appoint public defenders for indigents charged with felonies; in practice, however this rarely happens. The Association of Young Senegalese Attorneys provides free legal counsel to accused indigents.

During the state of emergency from April 28 to May 19, the Government had the authority to order house arrests and administrative internment for up to 2 months and to hold suspects for up to 8 days before charging them. However, with the exception of the curfew, no extraordinary powers were exercised, and such arrests as were made (all for crimes against property) were under the ordinary penal code.

However, the Government used its detention and other legal powers broadly in 1988 and 1989 to strike at critics, including journalists (see Section 2.a.). In judicial cases which are tried before the State Security Court, 23 persons remained under indictment for membership in an illegal organization, the Movement of Democratic Forces of the Casamance (MFDC), which advocates violent means to secure the independence of Senegal's southernmost region. All but five of these were free at year's end while awaiting trial; those still incarcerated are also accused of plotting against the security of the state. The five were arrested after having tried to solicit money and arms from Guinea-Bissau security officials to support guerrilla operations in the Casamance. Three men remained in detention awaiting trial for involvement in the fire-bombing of an official vehicle, allegedly for political motives, in December 1988. Seven members of the opposition PDS also were arrested, on the basis of an anonymous tip, in connection with the same incident. They soon were granted provisional liberty, and, although charges had not been formally dropped, the case appeared to be inactive at the end of 1989. In addition, 11 Maurs were being held at the end of 1989 for alleged espionage.

e. Denial of Fair Public Trial

Senegal has an active and well-trained judiciary, which is constitutionally independent of the executive, the legislature, and the armed forces. Court officials are lawyers who have completed a number of years of required apprenticeship. Trials are public, and defendants have the right to a defense attorney from the time the case is presented before an examining magistrate. Ordinary courts are presided over by a panel of judges which in criminal cases includes a panel of citizens as a form of jury. Magistrates are appointed by decree and in principle are not subject to government supervision; however, low pay, poor working conditions, and family and political ties may make magistrates vulnerable to outside pressures.

There are four categories of special courts: the High Court of Justice, the State Security Court, the Court for the Repression of the Unlawful Accumulation of Wealth, and the military courts. The High Court of Justice, created for the sole purpose of trying high government officials for treason or malfeasance, has never met. The State Security Court, consisting of a judge and two assessors, has jurisdiction over cases involving politically motivated crimes. The "illegal enrichment" Court, which has only judged three cases since it

was created in 1981, is not presently active. The military court system has jurisdiction over offenses committed by members of the armed forces during peacetime. Civilians may not be tried by military courts.

There were no reports of political prisoners in Senegal at the end of 1989. However, a military Board of Enquiry in April 1989 disciplined three officers, including the former armed forces chief of staff, for allegedly plotting a coup during the turbulent events surrounding the 1988 elections. Early in 1989, the Government indicated its intention to appeal a judge's decision of November 1988 in Louga which dismissed charges against members of two opposition political parties for unlawful assembly and inciting a riot; no appeal, however, had been entered at the end of 1989.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

There is relatively little government interference in the private lives of Senegalese citizens, particularly in rural areas. There are constitutional safeguards against arbitrary invasion of the home. Search warrants are required and under normal circumstances may be issued only by judges and in accordance with procedures established by law. In practice, searches without warrants occasionally take place. There is no evident pattern of monitoring the private written or oral communications of Senegalese citizens. There are reports, however, of active supporters of the political opposition being subject to wiretaps, unusually close scrutiny of tax records, and other forms of petty harassment.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Freedom of speech and press is protected in the Constitution and is generally respected in practice. Subject to restrictions relating to public order, a wide variety of political expression is possible. While Senegal's only daily newspaper is controlled by the ruling Socialist Party, there are many regularly published magazines and newspapers reflecting a broad range of political opinion from conservative to Marxist. The independent press often breaks stories ignored by the establishment daily newspaper (e.g., the trial of military officers accused of planning a coup d'etat) and the opposition newspaper, Sopi, regularly denounces the Government as illegitimate and calls on President Diouf to resign.

Notwithstanding this diversity, the official media (including the government-controlled radio, which is by far the most important medium of news dissemination), are subject to controls over their news coverage. Activities of the ruling party are always covered, while the opposition parties are mentioned only occasionally and selectively, e.g., communiques are not read in their entirety, or certain factions are excluded in favor of others less hostile to the Government. More equitable access to the media emerged as a principal opposition demand during and after the 1988 elections. The National Assembly in October enacted a new law, which must still be implemented by decree, regulating access to television and radio by "regularly constituted political parties." It is not yet clear whether the law will result in more transmision and air time to the Government's opponents.

SENEGAL

There are laws prohibiting personal attacks against the Chief of State or the institutions of the Republic, and a 1965 law prohibiting the dissemination of "false news" has been criticized for having a possible chilling effect on journalists. The Government used these legal powers in 1989. A university professor, who wrote an article in an independent newspaper on January 5, 1989, on the Senegalese police strike of 1987, was threatened with charges that he tried to discredit the institutions of Senegal; the case was dropped by the end of the same month. The publication director for Sopi was convicted on December 16 of spreading false news and discrediting public institutions. The charges arose from an article he had written in the spring claiming that agents of the Government had falsified the 1988 presidential election returns--certified as authentic by the Supreme Court--and publishing what were purported to be the true figures, showing PDS candidate Wade a clear winner. The director appealed the verdict and was released from custody until the appeal is heard. On September 12 and 13, four Sopi journalists and the chairman of the PDS parliamentary delegation were indicted for a series of Sopi articles attacking a senior member of the Government and exposing alleged equipment deficiencies in the armed forces. Immediately after charges were filed, all were granted conditional liberty (requiring the accused to keep the authorities advised of their whereabouts). The cases were still pending at year's end.

Publishers are required to register with the Central Court prior to starting publication, but such registrations are routinely approved. Publications, including foreign publications, are almost never censored or banned in Senegal. An exception occurred in February 1989 when Salman Rushdie's "Satanic Verses" was banned. The action came after the Organization of Islamic Conference (of which Senegal is a member) called on member states to ban the book and all others published by Viking/Penguin until the publishers withdrew the offending title. However, no other Viking/Penguin books were withdrawn, and foreign periodicals reporting on the Rushdie affair and quoting the book's controversial passages continued to circulate freely in Senegal.

In general, academic freedom is enjoyed by the schools and Senegal's sole university.

A National Commission reviews all films prior to public showing. Movies deemed offensive to Senegalese moral sensibilities are censored or banned. No instances are known of films being banned because of offensive political content.

b. Freedom of Peaceful Assembly and Association

In general, Senegalese freely exercise their constitutional rights of assembly and association. However, prior authorization for public demonstrations is required, and demonstrations or protest meetings against government policies are closely monitored by security services. The Ministry of Interior refused permission for the opposition PDS to hold mass demonstrations in Dakar March 14 and April 4 (National Day) on the grounds that public safety was threatened by the vandalism and random street violence which increasingly has accompanied such political demonstrations. Senegalese wishing to form associations must register them with the Ministry of Interior (except for business-related associations, which are registered with the Ministry of Commerce). By law and in practice, the Ministry is obliged to register such groups, so

long as the objectives of association are clearly stated and not in violation of the law.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

Senegal is constitutionally a secular state, and freedom of religion is a legal right which exists in practice. Islam is the religion of over 85 percent of the population, but no attempt has been made by the Government to introduce Shari'a (Islamic) law. Other religions, the major one of which is Roman Catholicism, are freely practiced. Missionary activity is permitted, and foreign Protestant missionaries are active in several regions of the country. Conversion is permitted, and there is no discrimination against minority religions. Adherence to a particular religion confers no official advantage or disadvantage in civil, political, economic, military, or other sectors. Both Islamic and Christian organizations publish periodicals. Koranic and Catholic schools exist alongside the public schools system, and the Mouride Brotherhood is constructing an Islamic University in its headquarters city of Touba.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution states that all citizens have the right to move and establish themselves freely anywhere in Senegal, a right that is respected in practice. Exit visas are not required for travel outside the country. There is no restriction on emigration, and repatriates are not officially disadvantaged on return to Senegal. A nighttime curfew was imposed throughout the Dakar region during the state of emergency which lasted from April 28 to May 19. A Senegalese citizen by birth may not have his citizenship annulled for any reason. A naturalized citizen may have his citizenship revoked if it is proved in a court of law that he obtained his citizenship fraudulently or--if he has been a citizen less than 15 years--if convicted of a crime.

Although Senegal's tolerant political and economic environment has attracted Africans from other countries, Senegal has hosted few official refugees. According to the United Nations High Commissioner for Refugees (UNHCR), there were less than 200 registered and assisted refugees in the country at the beginning of 1989. However, in 1989 the refugee/displaced person situation changed dramatically with the ethnic violence which erupted in Senegal and Mauritania in April and May. Unable initially to protect Maurs resident in Senegal, the Government--in agreement with the Government of Mauritania--began repatriating many of them by air and by land; and eventually some 100,000 persons were returned to Mauritania. Many of these lost their property in Senegal, and some were stripped of personal belongings and papers by Senegalese authorities--allegedly in retaliation for similar treatment dealt to Senegalese departing Mauritania. Prior to the unrest, some estimates placed the number of Mauritanians living in Senegal at 300,000, although no firm figures are available.

These civil disturbances in turn led to a massive return to Senegal of persons from Mauritania. By September approximately 90,000 Senegalese, mostly skilled and

semiskilled workers and fishermen, had been repatriated from Mauritania. In addition, some 44,000 black African Mauritanian citizens and 16,000 Senegalese uprooted from their traditional homes on the right (Mauritania) bank of the Senegal River had taken refuge in Senegal. Some had been forcibly expelled from Mauritania, while others fled a climate of intimidation and violence. Almost overnight, Senegal faced a massive and unanticipated refugee/displaced persons problem, but by the end of 1989 most of the 90,000 repatriated Senegalese had been absorbed into their families and communities throughout the country, although their integration into Senegal's fragile economy remained a serious problem. In contrast, the 60,000 Mauritanian and Senegalese uprooted from their communities in Mauritania have been sheltered in refugee camps and in Senegalese villages near the river frontier. For the most part the Senegalese, working with the UNHCR and other international agencies, organizations, and donor countries, have been generous in assisting these refugee/displaced persons, many of whom have strong ethnic and family ties in Senegal.

There were no known instances of refugees or displaced persons being refused entry into Senegal or forcibly returned to Mauritania. However, the Government admitted that some Senegalese citizens might have been inadvertently transferred to Mauritania during the exchange of populations and has said Senegal will take back any citizens who wish to return. According to UNHCR estimates, up to 22,000 Senegalese citizens may have been among those transferred to Mauritania. The Mauritanian Government claims that upwards of 200,000 of its citizens are still being held hostage in Senegal. The Senegalese Government disputes this charge. However, a mechanism for identifying such Mauritanians in Senegal and Senegalese among the displaced population in Mauritania and facilitating their return to Mauritania and Senegal had not been established by year's end.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Senegal is a functioning multiparty democracy, but the legitimacy of its 1988 election results was sharply challenged by the opposition. The Socialist Party has dominated Senegalese political life since independence. Presidential and legislative elections, with universal suffrage for all citizens over 21, are held concurrently every 5 years.

Following the 1988 elections, opposition leaders claimed widespread fraud and continued in 1989 to dispute publicly the legitimacy of the announced results. Sixteen of the 17 elected opposition deputies did take their seats in the National Assembly and participated in parliamentary activities. Opposition leaders demand electoral reforms, including a tightening of the voter identification card system and protection of the secret ballot. Legislation along these lines was enacted by the National Assembly in October. The new electoral law failed to address the opposition demand for a neutral national commission to supervise elections, a task now carried out by civil servants and the Supreme Court.

SENEGAL

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government allows human rights groups such as Amnesty International to investigate allegations concerning human rights abuses in Senegal and responds to requests for information about those allegations. The ICRC, with the approval of the Government, opened an office in Dakar in May 1989 with a mandate to monitor prisoner conditions.

Senegal is a leader among African countries in the promotion of international standards for human rights practices. For example, it sponsored the African Charter on Human and People's Rights of the OAU and was a founder of the OAU's African Human Rights Commission in 1987. Its officials serve in a variety of pertinent bodies; its representative was chairman of the U.N. Human Rights Commission in 1988 and played a key role in organizing and leading a mission to investigate the human rights situation in Cuba. Dakar is the headquarters of several institutions which foster human rights and democratic pluralism in Africa and frequently is the site of conferences related to human rights.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

While officially there is no discrimination in Senegal based on race, religion, or language, the country is predominantly Muslim, and Islamic customs, including polygamy and the rules of inheritance, generally prevail, especially in the rural areas. Article 7 of the Constitution states, "men and women shall be equal in law." The status of women has steadily improved under government encouragement and through increased educational opportunities. Modifications of the family code adopted by the National Assembly in 1988 reinforced women's rights to divorce, alimony, and child support.

However, Islamic and Senegalese customs persist, and women are still confined largely to traditional roles, notably in the large subsistence agricultural sector. Women usually marry young (the majority by age 16), average about 7 live births, and die relatively young. Sixty-seven percent of women aged 40 to 45 live in polygamous unions.

Violence against women, usually wife beating, occurs, particularly in rural areas, but there are no accurate statistics, and the extent of the problem is not known. Police do not normally intervene in domestic disputes, and women are reluctant to go outside the family for redress. Infibulation, the most severe and dangerous form of female genital mutilation, frequently is performed on girls aged 10 to 14 in the Fleuve, Casamance, and Senegal Oriental regions; the practice is deeply rooted in ethnic tradition and cuts across religious lines. There are no laws or regulations prohibiting this practice. However, the Minister of Social Development (a female dentist) has taken a personal interest in the issue and has formed a group to study the practice and warn village women of its hazards. The semiofficial daily newspaper Le Soleil carried a lengthy World Health Organization report in December about the harmful physical and psychologicial effects of excision and infibulation.

SENEGAL

Section 6 Worker Rights

a. The Right of Association

A minimum of seven people, each having worked within their profession for at least 1 year, are free to form a union by submitting a list of members and a charter to the Ministry of Interior. A union can be disbanded by the Ministry if the union's activities deviate from the charter. Even though they represent a small percentage of the overall population, unions wield a significant amount of political influence, primarily because of their ability to disrupt essential services.

At least 75 percent of the working population are engaged in rural activities such as cultivation, herding, and fishing. There are approximately 323,000 workers in the formal wage sector, of which approximately 100,000 belong to various unions. Of these, approximately 70,000 workers in 61 unions belong to the National Confederation of Senegalese Workers (CNTS), which is affiliated with the ruling Socialist Party. Although the CNTS was established in 1969 as the sole trade union central, with affiliation to the sole legal party, political and trade union pluralism was reestablished after 1976. The principal rival organization to the CNTS is known as the Democratic Union of Senegalese Workers (UDTS) and various independent unions exist in health, education, and transportation sectors.

While ostensibly an independent umbrella organization, the CNTS has supported government policies. During 1989 strains developed in this relationship, and the CNTS leadership has publicly opposed government policies on structural adjustment, modification of the labor code, and liberalization of the economy. Although CNTS remains Senegal's largest and most powerful labor confederation, it faces increased competition from independent unions.

Unions have the right to strike, and 1988/1989 saw strikes by the teacher/professor, electrical, banking, and health worker unions which were resolved in bargaining with the Government.

Senegalese unions are active in international labor organizations. The CNTS and the small Union of Free Workers of Senegal (UTLS) belong to the Organization of African Trade Union Unity. The UTLS is also listed as an affiliate of the communist-controlled WFTU.

For several years the Committee of Experts of the International Labor Organization has requested an amendment to the Senegalese law covering seditious associations to ensure that the Government cannot dissolve a trade union which it regards as disrupting the constitutional order by unlawful means.

b. The Right to Organize and Bargain Collectively

Senegalese unions have the right by law to organize and to bargain collectively, and these rights are protected in practice. There are no known instances of workers being forcibly discouraged from exercising these rights. In recent years, as the economic situation worsened and factories and businesses closed down, collective bargaining has succeeded in several instances in ensuring extended benefits for laid-off workers, e.g., the airline workers' union in negotiations with the Government and the new management of Air Afrique

respectively. The CNTS has been a major force in pressuring employers and the Government to establish regulations and guidelines for the well-being of workers. The Government will intervene in labor/management disputes when requested and plays a mediation and arbitration role in private and state-enterprise sectors.

An export free zone exists in Dakar into which goods may be imported for manufacture and reexported without payment of duty. Senegalese labor laws apply uniformly throughout the country, including in this zone.

c. Prohibition of Forced or Compulsory Labor

There were no reports of forced labor in Senegal, which is prohibited by law.

d. Minimum Age for Employment of Children

The minimum age for employment in Senegal is 16 for apprenticeships and 18 for all other types of work. These restrictions are closely monitored and strictly enforced within the formal wage sector, that is, the area of the economy over which the Government can exercise some supervision such as state agencies, large private enterprises, or farmers gathered into cooperatives. On the other hand, children under 16 are employed in the traditional sector, and minimum age and other workplace regulations on family farms in rural areas and in small, privately owned businesses are not seriously enforced.

e. Acceptable Conditions of Work

The CNTS has been very successful, within the formal economic sector, in obtaining acceptable conditions of work, including standard workweeks (40 to 48 hours per week for most professions), holiday/annual leave benefits (usually 1 month per year), and a variety of health and safety regulations. These regulations are incorporated into the Labor Code approved by the National Assembly and are supervised by Ministry of Labor inspectors. Enforcement, however, appears to be uneven, especially outside the formal wage sector. Recent CNTS efforts have concentrated on raising the minimum wage, currently approximately $0.82 an hour, which, according to Senegalese unions, is not considered sufficient to maintain a decent standard of living. Workers must frequently supplement incomes through second jobs and reliance on the extended family.

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Forty-fifth year

Letter dated 5 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices For 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Iraq. I have underlined passages of special relevance (see annex).

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(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

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ANNEX*

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U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

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* Underlining has been added by the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations.

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IRAQ

Iraq is in effect a one-party state governed by the Arab Ba'ath Socialist Party (ABSP) through a Revolutionary Command Council (RCC) which has both executive and legislative authority under the provisional Constitution of 1968. Saddam Hussein holds decisive power as President of the Republic, Chairman of the RCC, and Secretary-General of the Regional Command of the ABSP. Two other small parties are essentially support groups for the Government. In 1989 the Government announced its intention to adopt a multiparty system enshrined in a new constitution. Elections for the National Assembly--which has few powers--were held April 1. A draft constitution which would reportedly allow a multiparty system was completed in 1989 and is expected to be put to a referendum in early 1990. It remains to be seen, however, whether this will dilute the monopoly of power held by Saddam Hussein and the ABSP. Iraq's population comprises many disparate groups, most notably Shi'a and Sunni Muslim Arabs, Kurds, Turcomans, and various Christian sects, predominantly Assyrians and Chaldeans.

Iraq's military is large and well trained, and parts of it, notably the Fursan, or Kurdish tribal levies, have responsibility for security within the Kurdish autonomous region. The National Police is responsible for civil order.

The Government exerts a high degree of control over the economy, dominated by the petroleum sector, and owns all major industries. The Government has been carrying out a program of divestiture and privatization in agriculture, tourism, services, and light industry, and is trying to attract investor capital and expertise in the operation of the economy. However, close government regulation of economic activity is expected to continue.

Iraq's human rights record remained abysmal in 1989. Effective opposition to government policy is stifled; the intelligence services engage in extensive surveillance and utilize extralegal means, including torture and summary execution, to deal with antiregime activity. The civil rights of Iraqi citizens continue to be sharply limited, and Iraqis do not have the right to change their government. The freedoms of speech and press and of assembly and association are virtually nonexistent. Other important human rights problems include continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians, and an almost total lack of worker rights. In addition to the repressive domestic controls that predate the war with Iran, tight wartime controls, including travel restrictions, remain in effect despite the August 1988 cease-fire with Iran.

An armed Kurdish insurgency continued in 1989, but at a reduced level. Although there were no allegations that the Government used chemical weapons against Kurdish civilians in 1989, as it did in 1988, in its efforts to crush the rebellion, it continued to violate the human rights of elements of the Kurdish population. The Government announced in June that in its campaign to suppress the rebellion it has pursued a program since 1987 of establishing a depopulated security zone along the full length of Iraq's borders with Iran and Turkey. Under this program, the Government has destroyed villages within a 30-kilometer-wide zone and relocated approximately 500,000 Kurdish and Assyrian inhabitants into more easily controlled and protected towns,

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cities, and newly constructed settlements in traditional Kurdish areas.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

For years execution has been an established Iraqi method for dealing with perceived political and military opponents of the government, including, but not limited to, members of the outlawed Da'wa organization (an Iran-supported fundamentalist Shi'a Muslim group that has engaged in acts of international terrorism). In some cases, a family only learns that one of its members has been executed when the security services return the body and require the family to pay a fine.

Amnesty International (AI), in its presentation before the U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities in August, stated that it had received allegations that some 80 army deserters were executed in December 1988 and charged that the Government executed 11 of its Kurdish opponents in March and April 1989.

In its February report, "Iraq: Children: Innocent Victims of Political Repression," AI stated that it receives allegations of hundreds of executions in Iraq each year. AI cited the case of 29 Kurdish children and youths allegedly executed in January 1987. In addition, AI, in its 1989 Report covering 1988, cited allegations that hundreds of civilians, including women and children, were executed at Tanjaro Military Garrison, Sulaimaniya province. Independent information to confirm the allegations cited in AI reports is not available.

b. Disappearance

In the February report, AI asserted that thousands of people arrested over the years by Iraqi security or intelligence forces reportedly have "disappeared" while in detention, with many feared executed. In its August presentation to the U.N. Subcommission, AI reported the disappearance in mid-April of Mulla Muhammad Dalgayi, described as the imam of Qal'at Diza, who was among delegates from Kurdistan who reportedly met with government officials to appeal against forced settlement of the Kurds at Qal'at Diza. He was reportedly arrested in Baghdad and has since disappeared. An Assyrian organization based in the United States charged in March that the whereabouts of 33 Assyrians, who took advantage of the amnesty issued by the Government and returned to Iraq from Iran and Turkey, were unknown.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits torture and prescribes stiff punishment for it, but it is clear that both physical and psychological torture are used by the authorities, especially the security police. Given the rigid chain of command within the Government and the security services, torture could not be practiced without the knowledge or authorization of senior officials.

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Emigre groups and former prisoners assert that persons detained by the security police for political or security-related matters are frequently tortured and mistreated. Treatment is reported to be worst immediately following arrest and during the period of interrogation and investigation, which can last for months. Torture and brutal treatment are not limited to political cases.

Security-related offenses are broadly defined and include such routine criminal matters as currency violations.

In its 1989 Report, AI stated that the routine torture and ill-treatment of prisoners continued to be widely reported. It said the victims included detainees below the age of 18 who were reportedly beaten, whipped, given electric shocks, and deprived of food. The Government categorically denied any use of torture against children as an official policy or as a practice, and stated its readiness to consider fully any individual allegation with a view to bringing perpetrators to justice. Impartial observers have so far been unable to look into these allegations.

d. Arbitrary Arrest, Detention, or Exile

While the Constitution and legal code provide for the rights of citizens and place checks on police powers in such areas as arrest, detention, imprisonment, and search, these provisions have virtually no weight in political or national security cases, although they are generally respected in ordinary criminal cases. Security police not only make arbitrary arrests but also secretly detain suspects, whose fate sometimes becomes known only after they have been executed. Security charges have included espionage, treason, and conspiracy against Iraq, often in collaboration with unnamed foreign enemies.

The relocation of 500,000 Kurdish villagers to other areas of Kurdistan since 1987 may be considered a form of internal exile. The Government declared in June 1989 that it was creating an uninhabited security zone to ensure the safety and security of citizens in the border regions (who were subjected to shelling and military operations during the war with Iran) and to provide better services to the villagers.

Although the Government has ceased expelling Iraqis of supposed Iranian descent, most of the few remaining Iranians have been imprisoned or live under the fear of deportation or incarceration. Spouses of Iraqis of Iranian origin are required to obtain a divorce or suffer the same consequences. Moreover, other Iraqis, whose grandparents are shown not to be of Iraqi origin, are subject to arbitrary detention and deportation.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

Iraq's legal system provides for investigation by police and then by an inquiry judge who may refer a case to the courts or dismiss it. Judges try criminal cases; there are no juries. Convictions may be appealed to the Court of Appeal and then to the Court of Cassation, the supreme court. There are no Shari'a courts per se in Iraq; however, family courts administer Shari'a law modified by Iraqi custom.

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Trials of ordinary cases are held in civil, crimin , and religious courts and are open. Defendants are ent led to counsel--at government expense if the defendant is indigent. Charges and evidence are available for review by the lawyer. Appellate courts hear cases not under the jurisdiction of the Revolutionary Courts.

In contrast to ordinary cases, security cases are handled by the Revolutionary Courts, which usually hold closed trials. Security cases include espionage, treason, smuggling, currency exchange violations and drug trafficking. The right of defense in such courts is said to be severely restricted. The "special courts" constituted by the RCC for specific incidents, such as the reported conspiracy against the regime in 1979, are also closed. These special tribunals are apparently exempt from constitutional safeguards of defendants' rights; defendants are held incommunicado, and confessions extracted by torture are admissible. Appeals can be taken only to the chairman of the RCC. However, the utility of this appeal is questionable, since there are reports that executions take place shortly after trial.

Political dissent in Iraq is taken by the authorities to encompass a wide range of activities and, in an environment where public acknowledgement of arrest or imprisonment is rare, it is extremely difficult to estimate the number of political prisoners. In its 1989 Report, AI stated that "thousands" of political prisoners continued to be arbitrarily arrested and detained, especially members of prohibited political parties, Army deserters, and draft resisters. Relatives, including children of suspects, are said to be held as hostages to compel confessions.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides protections for the inviolability of the home, and strong cultural values reinforce these protections. Police must obtain a search warrant before entering the home of a criminal suspect. However, warrants are not required for the arrest of security suspects. Although most arrests occur outside the home, there have been reports of forced entry and arrest by the security police, particularly of suspected members of the outlawed Da'wa organization.

Although the Constitution provides for the confidentiality of mail and telegraphic and telephone correspondence, many Iraqis believe that the monitoring of telephones is a common practice and that all mail is subject to review by censors. The security services and Ba'ath Party maintain pervasive networks of informers. The Government maintains a close watch against Iranian attempts to exploit dissatisfaction among Iraqi Shi'a, who adhere to the branch of Islam prevalent in Iran.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

Elements of Iraq's Kurdish population have engaged in armed struggle with all governments of Iraq periodically since the 1920's. The outbreak of the Iran-Iraq war in 1980 sparked a new antigovernment insurgency by Kurdish elements, many of whom fought with or aided Iran during the war. From 1981 to 1989, the Government's efforts to crush the rebellion militarily resulted in approximately 8,000 deaths, many of

them civilians killed indiscriminately by chemical weapons in 1988.

Although the fighting was at a reduced level in 1989, Kurdish military operations continued, as did government measures to contain them. Kurdish rebels continued to announce their hostility towards the central Government. On August 29, 1989, the leader of one group of insurgents stated to the press in Geneva that his group would target foreign interests in Iraq supporting the Iraqi regime. At year's end, the cycle of Kurdish rebellion and government repression remained unresolved.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The freedoms of speech and press are not respected. The Constitution prohibits "any act aimed at undermining the national unity of the people, provoking racial, sectarian, and regional bigotry, or violating gains and achievements of the country." The Government views political dissent as a threat to its security and strictly controls speech and all information media. All publications are subject to censorship. The Government and the Ba'ath Party own and operate the press, radio, and television. The media do not criticize the Government, and news reporting is strongly biased. There is no presentation of opposition viewpoints.

Few foreign periodicals reach Iraq and those that do may be censored. Western newspapers are not sold. Foreign visitors' magazines, newspapers, cassettes, cameras, and video cassettes may be confiscated at the airport. To control the dissemination of political leaflets, word processors and computers must be registered. Failure to register is a criminal offense. Iraqis no longer need to register their typewriters or photocopiers, but foreigners in Iraq must do so. Taking photographs of military installations, government buildings, or areas near sensitive locations is forbidden and punishable by imprisonment. Journalists and photographers visiting Iraq at the invitation of the Government are required to present film taken in Iraq for inspection by the authorities.

b. Freedom of Peaceful Assembly and Association

These freedoms are severely limited. Public meetings may only be organized under the auspices of the Government or the Ba'ath Party. Association for nonreligious purposes and demonstrations without government approval have met with severe repression. Professional organizations are subject to control by the Ba'ath Party Central Vocational Bureau.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

Iraq is an ethnically and religiously diverse society. Since its rise to power in 1968, the Ba'ath Government, while carefully controlling religious groups, has enforced tolerance of religious diversity, seeking to submerge religious differences in the promotion of secular nationalism. A 1981 law gave the Ministry of Endowments and Religious Affairs the authority to promulgate laws and regulations governing places

of worship, appointment of clergy, publication of religious literature, and participation in religious councils and meetings. Muslim religious leaders operate under close government supervision, are considered government employees, and receive their salaries through the Government. The Government administers the principal Muslim shrines and mosques and has provided allotments to them and to churches for maintenance and refurbishing. There are no penalties under Iraqi law for changing one's religion, although there is a social stigma for Muslims who convert to another faith.

While the Government has assumed much greater authority in Islamic religious affairs since 1981, it has been less intrusive into the religious affairs of Iraq's Christians, who number more than 500,000 and constitute nearly 4 percent of the population. Their freedom of worship in churches of established denominations is legally protected, but they are not permitted to proselytize or to hold meetings outside church premises. Convents and monasteries exist, and some new churches have been constructed, in some cases with government financial support. The Jewish community has decreased from 150,000 following World War II to under 400. There is no evidence of recent persecution. One synagogue in Baghdad still functions.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

Iraqis are generally free to travel within the country and to change their residences or workplaces. However, they are likely to be constrained by social, cultural, and religious traditions which define the areas occupied by the various ethnic and religious groups. Sensitive border and other security areas are off limits. There are police checkpoints on highways and outside major towns, but Iraqis and nondiplomatic foreigners travel freely in nonrestricted areas.

The Government's harsh campaign to suppress Kurdish rebels, involving mass relocations of Kurdish villagers, has nullified the right of hundreds of thousands of Kurds to choose their place of residence. Since the Government began its program of forced relocation in 1987, an estimated 500,000 people have been uprooted. Since traditional Kurdish culture has been deeply embedded in the rural village, the forced removals and razing of villages has had a destructive impact on the lives of some half a million Kurds.

Most foreigners who remain in the country for more than 30 days and all Iraqis must obtain exit permission. Travel has been severely limited since September 1986, when the Government imposed tight restrictions on currency exchange. These restrictions were eased somewhat in 1989, but the most an Iraqi may exchange is 1,000 dinars ($3,220). Because of the drain on the economy caused by the war and reconstruction, permission to travel abroad is restricted to a few categories of Iraqis, including officials, businessmen, government-approved students, and persons needing medical treatment. In 1989 the Government eased restrictions to permit one parent to visit his or her offspring who is studying or working abroad.

While permission for medical treatment abroad may be granted, permission to transfer hard currency abroad to pay for it may not be. In cases of those desiring medical treatment in the United States, the Government now requires a bond to be posted by an American friend or relative with the Iraq: embassy in

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Washington before exit permission is granted. The minimum amount of this bond is $10,000. The Government sometimes limits the countries an Iraqi traveler may visit and, should the traveler visit a nonauthorized country, a small fine may be levied upon his return. Iraqis who have residences abroad may depart the country, provided they originally left before the war began. A married woman must have the permission of her husband to travel abroad.

The Government can require a prospective traveler to post a substantial bond to assure his return. The RCC decreed in 1987 that Iraqi students abroad who refuse to return to Iraq must reimburse the Government for all education received in Iraq or abroad at government expense. The decree is applicable retroactively to students who have refused to return since May 16, 1983, the date the Government began requiring employees leaving government jobs before 20 years of service to reimburse the State for the cost of their education. Amounts due can be recovered by confiscation; nonpayment may result in imprisonment. Each student must provide a guarantor before traveling abroad. This guarantor and the student's parents may be held liable if the student fails to return.

There is no specific ban on emigration or special restrictions for members of minority groups; however, emigration is discouraged. For the past several years, almost all of those given permission to emigrate have been Christian Iraqi wives of former Iraqi citizens now living abroad as citizens of another country. Prospective emigrants have had travel permission delayed and have been harassed. Many emigrants leave behind substantial property because of the difficulty of exporting assets. Currency exchange violations are considered national security offenses, and penalties can be severe.

Non-Iraqi spouses of Iraqi citizens who have resided in Iraq for 5 years are required to take Iraqi nationality or leave Iraq. Many people, including several Americans, have thus been obliged to accept Iraqi citizenship and are therefore subject to the present travel restrictions. In March 1984, an order by the RCC reduced the residency period before naturalization to 1 year for the spouses of Iraqi citizens employed in government offices. The Iraqi spouse faces penalties for noncompliance, including loss of job, a fine of approximately $10,000, and repayment of the costs of education. Iraq does not recognize the concept of dual nationality, and many Iraqi "dual nationals," especially the children of an Iraqi father and a mother of non-Iraqi birth, have been denied permission to leave Iraq to visit the country of their other nationality.

In recent years, the Government has instituted special programs to encourage repatriation of qualified professionals. Aliens of Iraqi origin can apply for a document permitting them to enter and exit from Iraq without a visa.

Other persons of Iraqi origin are permitted to return, including many persons who were admitted to other countries as refugees. A number of such people, especially Assyrian Christians, have returned on temporary visits. They are free to come and go, within the limits of the present travel restrictions, since they are not considered to have violated Iraqi laws. However, those who emigrated only after the beginning of the Iran-Iraq war, including several U.S.

permanent resident aliens, have been unable to depart from Iraq after returning. In September and November 1988 and in February and March 1989, the Government announced amnesties for Kurds who fled the country for any reason. Approximately 2,000 have voluntarily returned from refugee camps in Turkey.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Iraqi citizens do not have the ability peacefully to change their government. President Saddam Hussein and the RCC rule Iraq through the Ba'ath Party. It reportedly has some 1.5 million adherents, representing about 9 percent of the population.

There are two other small legal political parties, both Kurdish. They and the Ba'ath Party constitute the Patriotic and Progressive National Front, essentially a vehicle of support for the Government. Members of the military or security services may engage in political activities only within the Ba'ath Party. Association with the party is not required for appointment to senior government positions or military ranks or election to the National Assembly, but is normally necessary to attain political influence. Opposition groups, including various Kurdish groups and splinter parties, are severely repressed. The Communist Party was removed from the National Front and declared illegal in 1979. The Da'wa organization, a violent Shi'ite group, is still proscribed, and its members are subject to incarceration and execution, as are members of other parties believed to be cooperating with Iran. Plans the Government announced in 1988 to permit legal formation of opposition parties were not implemented in 1989.

General elections were held for the 250-seat National Assembly in April. Though in theory possessing a wide range of official duties, the Assembly exercises little real authority. The majority of the more than 900 candidates were independents, although all supported current government policies. The elections by secret ballot were more open than in the past, and some high-ranking Baath party officials were defeated.

The biennial elections for the Legislative Assembly of the Kurdish Autonomous Region were held in September 1989. All 174 candidates, from the three legal parties and independents, had to satisfy the same requirements as National Assembly candidates. The Legislative Assembly does not exercise meaningful authority.

In October 1989, an Experts Commission finished drafting a new Constitution to replace the Provisional Constitution of 1970. Iraqi officials assert that the new Constitution will provide more guarantees of human rights. However, the new Constitution has not yet been made public pending approval by President Saddam Hussein and the RCC.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government allows one human rights group to operate inside Iraq, but this is largely under government control. The Government has rarely cooperated with private foreign groups.

or international organizations in investigating events or practices in Iraq.

The Government denies charges that it violates human rights, and claims that the information on which AI and other human rights groups base their charges comes from pro-Iranian and Kurdish Iraqi exile groups in London and Paris. In its 1989 report on children in Iraq, AI cited several instances in which Iraqi authorities had commented on AI reports or responded to AI inquiries, but in each case these authorities had defended the Government's actions as justifiable or denied the accuracy of AI's information. A resolution before the U.N. Subcommission on the Prevention of Discrimination and Protection of Minorities in August 1989, recommending that the U.N. Commission on Human Rights study the human rights situation in Iraq, was narrowly defeated.

Iraq does cooperate with the International Committee of the Red Cross in efforts to resettle Iranian civilian refugees in third countries, and the U.N. High Commissioner for Refugees has had a permanent representative in Iraq since April 1988 who registers Iranian refugees and works for their resettlement.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

The Ba'ath Party is committed to the equality of the sexes, and a series of laws since it came to power in 1968 has steadily improved the status of women. There have been laws to protect women from exploitation in the workplace; grant subsidized maternity leave; permit women to join the regular army, popular army, and police forces; and equalize women's rights in divorce, land ownership, taxation, suffrage, and election to the National Assembly. In the 1970's, the Government imposed legal penalties on families that opposed sending their women to literacy schools, and on men who were seen harassing women. While the application of these laws has resulted in significant tangible improvements for women, a number of problems remain. Married women may still travel abroad only with the permission of their husbands. School enrollment of females has been increasing in recent years, reaching 45 percent in elementary schools and 36 percent in secondary schools in 1985-86.

Women represent about 47 percent of agricultural workers and about 25 percent of the total work force. The war accelerated the Government's drive to elevate the status of women, and it appears to have significantly reduced, if not removed, barriers to the acceptance of women in traditional male roles. Women are increasingly employed as architects, construction engineers, oil engineers, air traffic controllers, and factory and farm managers. Their role in the armed forces is limited to the medical field.

Violence against women, such as wife beating and rape, is known to occur but little is known about its extent. Such abuse is customarily dealt with within the tightly knit Iraqi family structure because of the value attached to personal privacy in this conservative society. Consequently, there is no public discussion of the subject, and there are no official statistics. Excessive violence against women would be grounds for divorce and criminal charges, but suits brought on these charges in Iraq are believed to be rare.

The use of minority languages is unrestricted. Kurdish is an official language used in schools and media in Kurdish areas. Turcomans publish in their dialect of Turkish, and Christians often use Aramaic as well as Arabic.

The Shi'a, who make up roughly 55 percent of the population, have historically been economically, politically, and socially disadvantaged throughout much of the Middle East. The Government has a declared policy to raise their living standards and equalize opportunities for their economic and professional advancement. For four centuries, political power in Iraq has been concentrated in the hands of the Sunni minority. Sunni Arabs, who comprise 20 to 25 percent of Iraq's population, dominate the RCC, the Regional Command of the Ba'ath Party, and the Cabinet. However, increasing numbers of Shi'as hold prominent positions, and the economic status of the Shi'a has improved through intensive government investment in the economic and educational infrastructure of southern Iraq.

Although Christians sometimes allege discrimination in education and jobs, adherence to their religion has not prevented many from obtaining wealth and professional advancement. The Deputy Prime Minister and Foreign Minister, a Chaldean Christian, has represented Iraq at meetings of the foreign ministers of the Organization of the Islamic Conference. Other Christians hold important official and private positions.

Citizens considered to be of Iranian origin carry special identification. They are often precluded from desirable employment and their advancement may be impeded. Many "Iranian" families have been in Iraq for generations. The two holiest shrines of Shi'a Islam, the prevalent sect in Iran, are located in Iraq. For generations Iranians have come to Najaf and Karbala on pilgrimage or to study in the seminaries, and many settled there. Some "Iranians" say their forebears were not from Iran but claimed Iranian nationality to evade Ottoman military conscription.

Section 6 Worker Rights

a. The Right of Association

Trade unions independent of government control do not exist in Iraq. Under the trade union organization law of June 2, 1987, a new single trade union structure was prescribed for organized labor. Workers in private and mixed enterprises and in cooperatives--but not public employees or workers in state enterprises--have the right to join a local union committee. The committees form trade unions which in turn are part of provincial trade union federations. At the top is an umbrella organization, the Iraqi General Federation of Trade Unions, which is organically linked to the Ba'ath Party and required to promote party principles and policies among union members. The General Federation is affiliated with the International Confederation of Arab Trade Unions and the Communist-controlled World Federation of Trade Unions. It is also active in the tripartite Arab Labor Organization, headquartered in Baghdad.

Although workers legally have the right to strike, after providing notice to the Labor Ministry, no such strikes were reported in 1989. There was a 1-day wildcat walkout by Egyptian workers protesting excessive work hours.

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b. The Right to Organize and Bargain Collectively

The right to bargain collectively is not recognized. Salaries for public sector workers (i.e. the bulk of the employed) are set by the Government. Wages in the private sector are set by the employers or negotiated individually with workers.

Iraq, which has ratified International Labor Organization (ILO) Convention 98 on the Right to Organize and Bargain Collectively, was criticized by the ILO's Committee of Experts (COE) in 1989 for the fact that its new labor code of 1987 fails to provide workers with protection against antiunion discrimination. The COE also expressed regret that the 1987 Act on trade union organizations did not provide for collective bargaining.

There are no export processing zones in Iraq.

c. Prohibition of Forced or Compulsory Labor

Although compulsory labor is prohibited by law, during and shortly after the war with Iran the Popular Army, the militia of the Ba'ath Party, employed press-gang methods to draft recruits. However, these activities ceased in November 1988, and the Popular Army was for the most part demobilized in 1989.

ILO supervisory bodies again in 1989 expressed concern that the Penal Code permits the punishment of civil servants with imprisonment, including compulsory prison labor, for breaches of labor discipline, which include resigning from one's job. A November cabinet meeting, reported in the government-directed press, quoted the remark of a minister that resignation from government jobs should be free, confirming that heretofore civil servants have had to buy their way out of government service.

d. Minimum Age for Employment of Children

Children are frequently encouraged to work as necessary to support the family, but the employment of children under age 14 is forbidden in all enterprises other than small-scale family enterprises. Children between the ages of 14 and 18 who are employed are protected by law: they work fewer hours and have more privileges than adult workers.

e. Acceptable Conditions of Work

The workweek in urban areas is 6 days, 7 to 8 hours a day, for workers in the private and mixed sectors. These provisions do not apply to agricultural workers whose workweek and hours of work per day can vary according to individual employer-employee agreements. Hours for government employees are set by the head of the ministry for which the employee works. Many government employees routinely work longer than 8 hours a day, some of them as much as 12 hours per day.

Occupational safety programs are in effect in state-run enterprises, and inspectors make visits irregularly to private establishments. Enforcement varies widely. A government decree to extend occupational safety and health protection was issued and subsequently withdrawn in December 1988, reportedly resulting in the dismissal of the Labor Minister.

A special problem arose after the Government decided in June to reduce drastically the amount of hard currency foreign

workers could remit. It is widely believed that the Government took this measure to "encourage" foreign workers to leave the country, thus freeing jobs for demobilized Iraqi soldiers. Workers not on contract were particularly hard hit. Most of the over 2 million Egyptian workers in Iraq were manual laborers. When they learned they would be able to transfer only $32 per month, they began to leave Iraq in droves, an estimated 2,000 per day by air alone. Egyptian and other foreign workers in Iraq have claimed that some Iraqi employers forced them to work 12 to 15 hours a day for 8 hours' pay or refused to pay wages. The Government has admitted that Iraqi banks have been slow to pay remittances. Egyptian workers are in fact receiving their savings a year after leaving Iraq.

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Security Council

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GENERAL

S/21232
5 April 1990

ORIGINAL: ENGLISH

LETTER DATED 29 MARCH 1990 FROM THE SECRETARY-GENERAL TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to my report of 11 October 1989 concerning the establishment of the United Nations Observer Group in Central America (ONUCA), which was approved by the Security Council in its resolution 644 (1989) of 7 November 1989. In paragraph 20 of my report I described the proposed organization of ONUCA and, in paragraph 25 (a), I stated that after consulting with the five Governments concerned, I would seek the Council's consent to the composition of the military element of ONUCA.

As the Council is aware (see S/20979), ONUCA's military personnel are currently contributed by Canada, Colombia, Ireland, Spain and Venezuela, with civilian elements from the Federal Republic of Germany.

I have now received an offer from the Government of Argentina to contribute the four fast patrol boats, with crews, which are required by ONUCA for duty in the Gulf of Fonseca. Having consulted the Governments of the five countries in which ONUCA is deployed, I propose to accept the offer of the Government of Argentina.

I should be grateful if you would bring this matter to the attention of the members of the Security Council.

(Signed) Javier PEREZ DE CUELLAR

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Security Council

Distr.
GENERAL

S/21233
5 April 1990

ORIGINAL: ENGLISH

LETTER DATED 5 APRIL 1990 FROM THE PRESIDENT OF THE SECURITY COUNCIL TO THE SECRETARY-GENERAL

I have the honour to inform you that your letter dated 29 March 1990 concerning the composition of the United Nations Observer Group in Central America (ONUCA) (S/21232) has been brought to the attention of the members of the Security Council. They have considered the matter and agreed to the proposal in your letter.

(Signed) Tesfaye TADESSE
President of the Security Council

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Security Council

Distr.
GENERAL

S/21234
6 April 1990

ORIGINAL: ENGLISH

REPORT BY THE SECRETARY-GENERAL CONCERNING THE CREDENTIALS OF THE ALTERNATE REPRESENTATIVE OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND ON THE SECURITY COUNCIL

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 5 April 1990 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations stating that Mr. Andrew Fulton has been appointed alternate representative of the United Kingdom of Great Britain and Northern Ireland on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.

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General Assembly Security Council

Distr.
GENERAL

A/44/936
S/21235
9 April 1990
ENGLISH
ORIGINAL: SPANISH

GENERAL ASSEMBLY
Forty-fourth session
Agenda item 34
THE SITUATION IN CENTRAL AMERICA:
THREATS TO INTERNATIONAL PEACE AND
SECURITY AND PEACE INITIATIVES

SECURITY COUNCIL
Forty-fifth year

Letter dated 5 April 1990 from the Representatives of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua to the United Nations addressed to the Secretary-General

We have the honour to transmit to you the "Montelimar Declaration", signed by the Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua on 3 April 1990 in Nicaragua (see annex).

We should be grateful if you would have this Declaration circulated as an official document of the forty-fourth session of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Emilia CASTRO de BARISH
Ambassador, Chargée d'affaires a.i.
of Costa Rica to the United Nations

(Signed) Ricardo G. CASTANEDA-CORNEJO
Ambassador, Permanent Representative of
El Salvador to the United Nations

(Signed) Francisco VILLAGRAN DE LEON
Ambassador, Permanent Representative
of Guatemala to the United Nations

(Signed) Javier SUAZO TOME
Ambassador, Chargé d'affaires a.i.
of Honduras to the United Nations

(Signed) Alejandro SERRANO CALDERA
Ambassador, Permanent Representative
of Nicaragua to the United Nations

ANNEX

Montelimar Declaration

The Presidents of Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua, meeting at Montelimar, Republic of Nicaragua, on 2 and 3 April 1990,

Bearing in mind the matters agreed upon in the various documents and declarations constituting the Esquipulas peace process which forms a single and indivisible whole, and inspired by the same patriotic and Central American spirit as has enabled the dialogue and negotiations held by the Central American Presidents to make a historic and decisive contribution for regional peace,

AGREE

1. To confirm the full validity of each and every commitment assumed in the Esquipulas process, and to renew the decision to implement the agreements reached in their entirety.

2. To express their satisfaction with the progress achieved for consolidating democracy in the region through fair and honest electoral processes that bear witness to the effectiveness and fulfilment of the political commitments assumed in the context of Esquipulas.

3. To express their pleasure at the successful outcome, on 25 February 1990, of the electoral process in the Republic of Nicaragua, because these elections were held in a completely free and honest environment, as witnessed by the numerous international observers.

To commend the guarantees extended by the Government of Nicaragua in fulfilment of the political commitments entered into at the various stages of the Esquipulas process, and to express their satisfaction with the agreements reached by the Transition Teams of the current Government and the Government-elect, to which they gave their moral support out of respect for the paramount decisions adopted by the Nicaraguan people.

Accordingly, the Presidents of Costa Rica, El Salvador, Guatemala and Honduras convey their thanks to the President of Nicaragua, Daniel Ortega Saavedra, for promoting and reinforcing the process towards consolidating representative and pluralistic democracy in his country.

4. To confirm their pledge to continue promoting respect for human rights, which includes strengthening and improving their democratic systems for the purpose of fully ensuring: participation of all citizens in the political life of the country; independence and impartiality of the judiciary; and respect for civil, political, economic, social and cultural rights.

5. To emphasize the urgent need for immediate demobilization of the Nicaraguan Resistance, pursuant to the Joint Plan for demobilization, signed at the Tela

Summit on 7 August 1989, and the Toncontin Agreement, signed in Honduras on 23 March 1990, and to express their satisfaction at the willingness shown by the parties involved to achieve that objective.

The Presidents of Costa Rica, El Salvador, Guatemala and Honduras applaud the immediate support given by the Government of Nicaragua to the aforesaid Agreement which they also fully support, so that peace may be restored in the country and the transfer of power carried out in absolutely normal conditions.

To support the Protocol of Procedure for the Transfer of Presidential Authority of the Republic of Nicaragua, and to request the United Nations Observer Group in Central America (ONUCA) and the International Support and Verification Commission (CIAV) to take the necessary steps to ensure timely support for the demobilization and disarmament of the members of the Resistance who are inside or outside Nicaragua, a process which is to be initiated immediately and to be concluded no later than 25 April 1990.

The weapons to be received by ONUCA are to be destroyed in situ in the presence of representatives of other Central American Governments invited for this purpose by the relevant Government.

To urge the Government of the United States of America to continue supporting and contributing to the demobilization of the Nicaraguan Resistance and to channel the funds approved for these forces to CIAV, so that the said funds are used for reintegrating both the ex-members of the Nicaraguan Resistance who have handed over their weapons to ONUCA, and their families, into the normal life of the country.

To express their thanks and recognition for the valuable co-operation of the Government of Honduras in demobilizing the Nicaraguan Resistance.

6. To thank the Secretary-General of the United Nations and the Secretary-General of the Organization of American States for their continued efforts in support of the Esquipulas process, and to reiterate their support for the work of ONUCA and CIAV.

7. To reaffirm the importance, for the consolidation of democracy, of integrating the irregular forces into political life, within the framework of the Esquipulas Agreements. In this regard, they expressed their satisfaction at the forthcoming resumption of talks between the Government of El Salvador and the Frente Farabundo Marti para la Liberación Nacional (FMLN) and at the agreements reached at Oslo between the National Reconciliation Commission of Guatemala and the Unión Revolucionaria Nacionalista de Guatemala (URNG). The Central American countries also offered to serve as hosts for the meetings to be conducted in the context of these processes.

8. To condemn terrorist actions in the region and to reiterate their appeal for the cessation of violent action of all kinds that directly or indirectly harms the civilian population and to the production infrastructure, and to demand the immediate release of all persons being held by irregular forces or terrorist groups.

16. They decide to convene during the second quarter of the current year at the regular meeting to be held in the Republic of Guatemala.

17. The Presidents of Costa Rica, El Salvador, Guatemala and Honduras wish to congratulate the people and Government of Nicaragua for their fraternal hospitality, which contributed decisively towards creating a frank and constructive atmosphere which will surely further the Central American peace effort.

DONE at Montelimar, Republic of Nicaragua, on 3 April 1990.

Oscar ARIAS SANCHEZ
President of the Republic
of Costa Rica

Alfredo CRISTIANI BURKARD
President of the Republic
of El Salvador

Vinicio CEREZO AREVALO
President of the Republic
of Guatemala

Rafael Leonardo CALLEJAS
President of the Republic
of Honduras

Daniel ORTEGA SAAVEDRA
President of the Republic of Nicaragua

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6 April 1990

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GENERAL ASSEMBLY
Forty-fifth session
Items 92, 103, 109, 112 and 113
of the preliminary list*
EFFECTIVE IMPLEMENTATION OF UNITED NATIONS
INSTRUMENTS ON HUMAN RIGHTS AND
EFFECTIVE FUNCTIONING OF BODIES
ESTABLISHED PURSUANT TO SUCH INSTRUMENTS
CRIME PREVENTION AND CRIMINAL JUSTICE
ELIMINATION OF ALL FORMS OF RELIGIOUS
INTOLERANCE
TORTURE AND OTHER CRUEL, INHUMAN OR
DEGRADING TREATMENT OR PUNISHMENT
ENHANCING THE EFFECTIVENESS OF
THE PRINCIPLE OF PERIODIC AND
GENUINE ELECTIONS

SECURITY COUNCIL
Forty-fifth year

Letter dated 6 April 1990 from the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations addressed to the Secretary-General

I have been instructed by my Government to draw your attention to the attached extract from Country Reports on Human Rights Practices For 1989, published by the Department of State of the United States of America, which contains information on the situation concerning human rights in Cuba. I have underlined passages of special relevance (see annex).

In view of the importance of this information, I have the honour to request that the text of the present letter and its annex be issued as an official document of the General Assembly, under items 92, 103, 109, 112 and 113 of the preliminary list, and of the Security Council.

(Signed) Johanan BEIN
Ambassador
Acting Permanent Representative

* A/45/50.

ANNEX*

101st Congress
2d Session

JOINT COMMITTEE PRINT

COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES FOR 1989

REPORT

SUBMITTED TO THE

COMMITTEE ON FOREIGN AFFAIRS
HOUSE OF REPRESENTATIVES

AND THE

COMMITTEE ON FOREIGN RELATIONS
U.S. SENATE

BY THE

DEPARTMENT OF STATE

IN ACCORDANCE WITH SECTIONS 116(d) AND 502B(b) OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED

FEBRUARY 1990

Printed for the use of the Committees on Foreign Affairs and Foreign Relations of the House of Representatives and the Senate respectively

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* Underlining has been added by the Chargé d'affaires a.i. of the Permanent Mission of Israel to the United Nations.

CUBA

Cuba is a totalitarian state dominated by a single person, Fidel Castro, who is Chief of State, head of Government, leader of the Communist Party, and Commander-in-Chief of the Armed Forces. With support from a few long-time associates, President Castro exercises control over nearly all aspects of Cuban life through a network of directorates ultimately responsible to him through the Communist Party. The party is the only legal political entity and is headed by a self-perpetuating elite. All government positions, including judicial offices, are controlled by the party. Elections are held only to endorse party-approved candidates; there was one isolated exception in 1989 (see Section 3). Though not a formal requirement, party membership is a de facto prerequisite for high-level official positions and professional advancement in most areas.

The Ministry of Interior (MININT) is the principal organ of repression and of totalitarian control. It operates border and police forces, orchestrates public demonstrations, determines the legality of associations, investigates evidence of nonconformity, regulates migration, and maintains pervasive vigilance through a series of mass organizations and informers. The Ministry underwent structural reorganization in 1989 and is now under de facto control of the Revolutionary Armed Forces (FAR). The mass organizations attempt to extend government and Communist Party control over each citizen's daily activities at home, work, and school. Citizens are exhorted to ensure ideological conformity and to report deviation.

The Cuban economy is highly centralized and managed by a group of advisors close to President Castro. The Government controls the means of production and is virtually the country's sole employer. In the late 1970's, Cuba began to use market mechanisms, but in 1986 the Government reversed course and began the ongoing "rectification of errors" campaign. It sought to stamp out an emerging informal private sector while promoting antimaterialist "socialist morality." The abandonment of the liberalization program in favor of more orthodox Communist policies has played a major role in the Cuban economy's recent stagnation. In 1989 this campaign of Marxist economic orthodoxy caused sharp conflicts with Cuba's reform-minded socialist trading partners.

Cubans do not possess equal protection under the law, the right to freely choose government representatives, freedom of expression, freedom of peaceful assembly and association, or freedom to travel to and from Cuba without restriction. There is no independent judiciary, due process safeguards can be and are constitutionally circumvented, and defense attorneys face severe disadvantages under the judicial system. Aside from the churches, which themselves are monitored by the party, there is virtually no institutional autonomy in Cuban society. All media are Government-owned and remain under tight control, and the practice of religion continues to be discouraged. Government efforts to monopolize control over many aspects of life remain very intrusive.

The human rights situation in 1989 worsened significantly from the previous year. The Government stepped up repression in marked contrast to the limited relaxation effected in 1988. During the year the Government cracked down on human rights groups, executed four uniformed officers without a fair trial, and denied internationally recognized human rights monitors

permission to attend a trial of three human rights leaders. Efforts by the United Nations Secretary General to implement a U.N. Human Rights Commission (UNHRC) resolution to follow up on reported abuses in Cuba had by year's end produced little response from the Cuban Government. The only positive carryovers from 1988 into 1989 included continued releases of political prisoners, permission for the International Committee of the Red Cross (ICRC) to again interview political prisoners, and the slight expansion of the 1988 exceptions granted to the churches.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

FAR General Arnaldo Ochoa, MININT Colonel Antonio De la Guardia, MININT Major Amado Padron, and FAR Captain Jorge Martinez were executed by firing squad on July 13 following a show trial (see Section 1.e.). Although the full story behind the Ochoa/De la Guardia case is still unclear, there are circumstantial indications that political motivation may have played a part in making Ochoa the key figure in the case and in sentencing him and three others to death.

Although not politically motivated, there have been some reports of police officers engaging in unjustified use of lethal force. In one such example, police investigating a petty theft killed a Havana youth, Elisco Canada Coffiguez, in June, and in another Julian Cela Cuellar was reportedly shot to death in Havana on July 8, for allegedly verbally abusing an arresting officer who was breaking up a street fight.

b. Disappearance

There were no credible reports of politically motivated disappearances in 1989.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Reliable reports of prisoner abuse and beatings rose in 1989, with a severity in some cases amounting to torture. There was no indication that Cuban authorities undertook investigations or disciplinary actions in response to charges of such abuse. Punishment cells remain in regular use for disciplining inmates, in violation of international norms. Rodolfo Frometa and Angel Donato Martinez, two "nuevos plantados" (new prisoners who refuse prison "reeducation"), reportedly were held incommunicado in punishment cells in Combinado del Este Penitentiary for more than 1 year from 1988 to 1989. In January there were multiple allegations that guards had beaten and placed in isolation cells several prisoners in Combinado del Este during a protest by the so-called lancheros (persons arrested for illegal attempts to leave the country).

Cuban Human Rights Party activist David Moya was severely beaten in a Pinar del Rio prison for organizing protests against prisoner mistreatment, according to the Cuban Human Rights Party and his own reports smuggled out in August. The beating and use of electric prods on 11 Combinado del Este inmates in December 1988 reportedly resulted in two prisoners being treated for cranial fractures. The prisoners were

protesting the removal of a political prisoner to a prison for common criminals. In March and August, dozens of Combinado del Este inmates engaged in hunger strikes and smuggled out written denunciations of the conditions of their confinement; these protests reportedly resulted in several severe beatings and frequent confinement in punishment cells.

Several charges of confinement of political prisoners in psychiatric hospitals were reported in 1989. Four dissidents were confined in psychiatric hospitals, ostensibly for evaluation, for periods ranging from a few days to several weeks. None of the four reported mistreatment during their hospital stays. One, Julio Soto Angurel, leader of the Jose Marti Council of Independent Defenders of Human Rights and National Reconciliation, remained at year's end in the Havana Psychiatric Hospital, where he was confined after his arrest on October 8.

Following his release in 1989, Cuban Human Rights Committee member Jesus Leyva Guerra reported that security police detained him in July 1988 and then transferred him to the prison ward of the Gustavo Machin Psychiatric Hospital in Santiago de Cuba. Leyva said he was forced to undergo psychiatric "treatment" and, after he began a hunger strike, was subjected to electroshock six times.

With a sharp drop-off in the number of outside groups permitted to visit Cuban prisons in 1989, it was far more difficult to appraise current conditions. Physical improvements in prison conditions, such as in ventilation and sanitation, that were made in 1988 before visits by international human rights groups, apparently were largely maintained but not expanded during 1989. Local human rights monitors assert that punishment cells in provincial jails featured harsher conditions of confinement.

Political prisoners released in 1989 claimed that, while conditions remained the same for those incarcerated for political offenses, mistreatment of common prisoners increased during the year. There were reports of beatings of prisoners incarcerated for attempting to leave Cuba without government permission. These prisoners, who are treated as common criminals, were protesting the Government's refusal to recognize them as political prisoners. Reports smuggled out of the prisons indicate, however, that political reeducation of prisoners has become essentially voluntary since 1988; therefore, prisoner protests have largely centered on general prison conditions.

Local human rights monitors reported a notable rise in incidents of alleged police brutality by arresting officers, often in situations involving minor offenses. These included the shooting of Edel Guerrero Licea and Hidelberto Figuerado in Palma Soriano at a religious festival in December 1988, the August 16 shooting of Iran Sanchez Hernandez (who was attempting an illegal departure from the island), and the shootings of a Havana youth for "resisting arrest," and a 16-year-old after a traffic infraction. In none of these cases has there been any indication that any police official was investigated or punished for such actions. Two other incidents ended in death (see Section 1.a.).

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d. Arbitrary Arrest, Detention, or Exile

Article 245 of the Cuban Law of Penal Procedure requires police to file formal charges and either to release a detainee or place him at the disposition of a prosecutor within 96 hours. Authorities are also required to provide suspects with a defense attorney within 10 days of arrest. Despite some signs that authorities were more concerned to follow legal forms, Cuban procedural rights related to arrest continue to be widely denied. Article 61 of the Constitution permits denial of all recognized civil liberties in the case of anyone actively opposing the "decision of the Cuban people to build socialism." This article is implicitly invoked by Cuban authorities who, in the past, justified lengthy detentions of dissidents by characterizing them as "counterrevolutionary elements."

Arbitrary arrests and prolonged detentions without trial of dissidents increased in late 1988 and continued through 1989. At least 18 such arrests, followed by prolonged detentions, of dissidents took place in the weeks following the September 1988 UNHRC visit. Since then, a total of approximately 50 dissidents have been subjected to punitive actions ranging from threats, harassment, and beatings to detentions and imprisonment. Cuban authorities used brief detentions ranging from several hours to several days to intimidate dissidents without formally charging them.

For example, seven members of the Free Art Association (APAL) were detained for months before being charged and brought to trial in September 1989. Lazaro Cabrera Puente, Pablo Pupo Sanchez, Juan Garcia Cruz, Gilberto Plasencia, and Ramon Obregon had been detained since October 1988. Carlos Novoa and Jose Mari Becerra had been arrested in January. Amnesty International (AI) reported that Novoa had gone on a 59-day hunger strike beginning in May to demand that he be charged and brought to trial.

Elizardo Sanchez (President of the Cuban Commission for Human Rights and National Reconciliation), Hiram Abi Cobas (head of the Cuban Human Rights Party), and Hubert Jerez (head of the Marti Committee for Human Rights) were arrested on August 6 for "disseminating false information" concerning the trial of General Ochoa (see Section 1.e.). Following their arrests, the human rights leaders were confined in the Villa Marista detention center for about 6 weeks before being transferred to Combinado del Este prison. According to Sanchez, while in Villa Marista they were each held in solitary confinement inside windowless 10 foot by 3 foot isolation cells that were brightly illuminated 24 hours a day for 36 days prior to their November 17 trial.

Orlando Polo, leader of the "Green Path" ecological-pacifist group, was arrested three times in August and September and held without being charged for 1 week in the Villa Marista detention center and for 2 weeks in the Havana Psychiatric Hospital. In Villa Marista, Polo was interrogated about unspecified charges without the benefit of an attorney.

Several more activists continued to be held at year's end without charges. Enrique Acosta Ruiz, Sergio De la Vega Gomez, and Lazaro Rosa Arbolez were arrested in April. Esteban Gonzalez, Manuel Pozo and two other members of the Pro-Amnesty Committee, a group calling for the release of political prisoners, were arrested in September. Cuban Human

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Rights Party activist Edita Cruz was taken into custody in November. Altogether, over 25 arrested or detained activists were still imprisoned or held without being charged at year's end.

Reliable reports indicated that some prisons were filling up again in 1989 after the Government reportedly released over 8,000 criminal offenders in 1988 under the new penal code. In 1989 the authorities began a massive and sustained campaign to prosecute economic offenders, and this may be adding to the prison population. Reports from inside prisons indicate that the number of offenders incarcerated for attempted illegal departures increased in 1989 although prison sentences for the offense remained moderate by Cuban standards. In 1988, especially in the months leading up to the visit of the UNHRC's Cuba Working Group, many persons arrested for illegal departure attempts from the island were not jailed but were fined and released with a severe warning.

Precise numbers of political prisoners in Cuban jails are difficult to determine because of the release of hundreds of prisoners over the last 2 years, differences in definitions of political prisoners, and the Government's traditional secrecy about the prison population. Current estimates of the number of Cuban political prisoners range from Americas Watch's (AW) January 1989 estimate of "several score additional Cubans to possibly as many as a few hundred" to the Cuban human rights activists's claims of many more. In March 1988, the Government stated that there were 455 persons imprisoned for crimes against state security, a category which now does not include offenses such as illegal departure, contempt, and offenses related to the practice of a religion, such as conscientious objection. Another indication of the prisoner population came from the ICRC, which reported that its delegation in May visited 257 prisoners, including some convicted of illegal departure, in 10 Cuban detention centers including the Havana Psychiatric Hospital.

During the year Cuban authorities continued to release selected political prisoners, including some on the condition that they immediately emigrate to the United States. According to U.S. press reports, the Government notified the U.S. Catholic Conference in November 1988 that it would free 225 political prisoners, including 44 it had previously labeled as too dangerous to release. Cuban authorities subsequently did not release the entire group, although at least 8 of the 44 "dangerous" prisoners, including "plantado historico" Alberto Grau, were freed in 1989. There are three remaining "plantados historicos" (long-term political prisoners who have refused "reeducation") still in prison. Alfredo Mustelier, one of these three who has served 20 years of his 25-year sentence, claims that he should be released under retroactive provisions of the 1988 Penal Code. He undertook two lengthy hunger strikes in 1989 to protest his continued incarceration and was gravely ill in December. The U.N. Secretary General, members of the U.S. Congress, and many nongovernmental organizations have asked President Castro to review the cases of Mustelier and the other two "plantados historicos."

Many human rights activists were arrested on April 3 in order to forestall their planned demonstration at the Soviet Embassy during the visit of President Gorbachev. The demonstrators, who wanted to call for support of "glasnost" within Cuba, received sentences ranging from 3 to 9 months.

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The Cuban Penal Code retains internal exile as a sanct n against convicted offenders, but no instances of force removal or resettlement were reported in 1989.

With regard to forced or compulsory labor, see Section 6.c.

e. Denial of Fair Public Trial

Cuban law and trial practices do not meet international standards for fair and impartial public trials. The Constitution terms the courts independent, yet it explicitly subordinates them to the National Assembly and the Council of State (Article 122). Judges are elected by the rubberstamp National Assembly and its lower level counterparts. The independence of the judiciary is compromised by the de facto subordination of the courts to the Communist Party: there is no known case in which a Cuban court has successfully ruled against the Government on any political or security matter.

Civil courts exist at three levels--municipal, provincial, and the Supreme Court. All civil courts are presided over by panels composed of a mixture of professionally prepared judges and lay judges. There is also a system of military tribunals which tries certain counterrevolutionary activity cases. Defendants have a general right of appeal at the municipal level and a conditional right at the provincial level. Cases involving maximum prison terms or the death penalty are always open to appeal. The Law of Penal Procedure provides that an appeal must be presented within 5 days.

The revised Penal Code (Law No. 62) implemented in 1988 reduced the number of capital offenses and the length of sentences in some cases. The new code did not, however, significantly modify the previous definition of political offenses, the punishment meted out for them, or due process provisions for accused political offenders. Under provisions of the revised code, defense lawyers may be excluded until an investigation is completed, and attempted illegal departure from Cuba remains punishable by up to 3 years' imprisonment or a fine of up to approximately $1,000.

Political offenses, which prevent virtually any form of free expression, remained unchanged in the revised penal code, which retained the concept of "dangerousness" (Articles 72-89) and vaguely defined it as "the special proclivity of a person to commit crimes, demonstrated by his conduct in manifest contradiction of Socialist norms." If the police determine a person is exhibiting such behavior, the offender can be brought before a court which may apply police surveillance, reeducation, or therapy lasting for from 1 to 4 years. In 1989 as in 1988, the concept of "dangerousness" appears to have been invoked rarely, if at all.

Cuban evidentiary practices do not meet generally recognized international standards. A trial for political offenses ordinarily consists of evidence given by the prosecution's witnesses, who are generally employees of state security organs. In some cases, the only evidence is the defendant's confession, obtained without due process safeguards against self-incrimination or coercion. There are usually no defense witnesses, although testimony on behalf of the defendant from a member of a Committee for the Defense of the Revolution (see Section 1.f.) may be introduced and may contribute to a reduced sentence.

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Cuban law provides an accused the right to a defense attorney, but the latter's impartiality and independence are compromised by the absence of a private bar association and by ideological controls exerted over members of the state-controlled lawyers' collectives, especially in defending persons accused of crimes against state security. When the legal collectives were reorganized in 1984, some 15 percent of then-active attorneys, including many active in political cases, were denied readmission and thus effectively disbarred. Government-appointed defense attorneys generally are poorly prepared and unsympathetic towards the defendant. In 1988 the visiting New York City Bar Association delegation observed Cuban trials for common crimes and found the counsel ill-prepared and unaggressive. Typically, defendants and lawyers are afforded little time together; in some cases, former political prisoners have asserted, clients see their counsel only one hour before trial. Others are unable to meet at all with their attorneys.

Observers have noted a reluctance among attorneys to defend persons charged with political offenses. Lawyers are discouraged from taking political cases because of persecution suffered by those who do. Domingo Jorge Delgado, for example, was freed in 1988 and allowed to emigrate to the United States in 1989, after serving 8 years in prison following his defense of a group of persons who had attempted to seek political asylum. Former political prisoners have alleged that state security officials apply pressure on all persons involved in the judicial process, and that those officials, not the courts, really decide the fate of the detainee.

Several prominent cases of dissidents illustrate how the Cuban judicial system works in practice:

Samuel Martinez Lara, Secretary General of the Cuban Human Rights Party, was sentenced on April 7 to 9 months in prison. Martinez, David Moya, Roberto Bahamonde, and two other members of the Cuban Human Rights Party were arrested on April 3 for announcing a demonstration, which was to call for "glasnost" in Cuba, outside the Soviet Embassy during Soviet leader Gorbachev's visit. All were held incommunicado until their closed trial 3 days later where, without defense attorneys present, they were convicted of "illegal association." Moya received a sentence of 9 months and Bahamonde a sentence of 3 months in prison. In a June 1989 report, AI criticized the trials of Bahamonde, Martinez, Moya, and six other imprisoned members of the Cuban Human Rights Party, stating that they were punished because of their peaceful political and human rights activities and that procedures in their trials did not conform to international standards for fair trial.

Bahamonde's and Moya's sentences were subsequently extended without any semblance of due process. Two months into his prison sentence on June 9, Bahamonde was sentenced to an additional year for "illegal economic activities." According to a letter smuggled out of prison, Moya was found guilty of "contempt" at a courtroom set up in a prison dining room in September and sentenced to a further year in prison. Martinez was not released upon completion of his sentence on January 4, 1990

General Ochoa and 14 other top military and security officials received few due process safeguards at their highly publicized trial in June and July. Drug trafficking and other serious charges were leveled against them first in the official press

and then in 2 weeks of show trials. The proceedings were influenced by the publicly stated views of President Castro and the presentation before the military tribunal by Minister of Defense Raul Castro, as well as official media comments about the guilt of the accused. Defense lawyers for the accused had little time to prepare an adequate defense, received little court time compared to the prosecutor, and apparently at no time did other than to ask for clemency. The accused were sentenced on July 7, their appeal was quickly rejected on July 9, and the Council of State confirmed the death sentences of Ochoa and three other defendants, which were carried out later the same day. AI, AW, and the Inter-American Commission on Human Rights (IACHR) condemned the trial's procedures and its swift aftermath.

In mid-1989, defense lawyers in two prominent cases involving human rights activists described below were given greater pretrial access to their clients than was available in previous years. In neither instance, however, was the outcome of the case notably altered in favor of the defendants as a result of these opportunities for more extensive consultations.

Prior to the trial of seven APAL dissidents in September, some defendants, including Carlos Novoa and Pablo Pupo Sanchez, were released on bail and allowed regular consultations with their attorneys. After a trial heavily laden with political invective, according to eyewitnesses, the seven activists received harsh prison sentences ranging from 9 to 21 months on charges of "continued illegal association," "failure to report a crime," and, in one case, "possession of a firearm." In the case of defendant Juan Enrique Garcia, his attorney had excused himself one day prior to the September trial because the date allegedly conflicted with his vacation.

In November Elizardo Sanchez and two other human rights leaders were tried publicly for "spreading false information" on the Ochoa affair; representatives of AW and AI were not permitted to enter Cuba to attend. Likewise, the Government did not allow two U.S. journalists to appear as witnesses for the defense. Two foreign diplomats were allowed to attend the proceedings. All three defendants were granted the right to defense attorneys, but pretrial consultations were limited. At the trial, the accused were allowed to speak freely in their own defense. Although the prosecutor requested the maximum sentence (4 years) for Sanchez, he was sentenced to 2 years and the other 2 defendants were given 18 months each.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

Official intrusion into private and family affairs remains one of the most repressive and pervasive features of Cuban life. Government or Communist Party-directed mass organizations permeate Cuban society. The State has assumed a virtual right of interference, even for those who do not actively oppose the Government and its practices. Beyond promoting ideological conformity, many of these intrusions are ostensibly aimed at "improvement" of the citizenry.

The extensive apparatus of the MININT decides on the legality of all private and public associations, and utilizes an intricate system of informers, block wardens, and block committees (Committees for the Defense of the Revolution - CDR) to monitor and control public opinion. Police searches are at times carried out without warrants, as occurred in the

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homes of several human rights activists in 1989. Authorities were more careful than in the past to observe the appearance of respect for the rights of those suspected of dissent, but Cuban courts automatically issue warrants in security cases, thus rendering this procedural safeguard meaningless.

The authorities possess a wide range of social controls. For example, the educational system teaches that the State's interests have precedence over all other ties and commitments. Teachers, selected in part for their ideological commitment, espouse Communist Party doctrine and can sanction students whose families question orthodox opinion Teachers also evaluate the political and ideological character of their students, which is noted in records carried with each student throughout his or her education. Cubans are also pressured to join a variety of mass organizations, including the Union of Young Communists, despite the supposedly voluntary nature of these groups. Outstanding students or workers, according to reliable reports, often find themselves coerced into membership in such mass organizations.

CDR's are neighborhood surveillance/security committees tasked with closely monitoring the daily lives of individual residents. Participation in Cuba's 80,000 CDR's is in practice involuntary in urban areas. The Government in 1988 announced the elimination of one CDR report on the beliefs of citizens, but there is little evidence that this change significantly altered the role of the CDR's as guardians of social conformity. CDR's apparently continue to report suspicious activities, such as contact with foreigners, reception of foreign broadcasting in the home, conspicuous consumption, unauthorized meetings, and criticism of the Government. CDR activity, if anything, increased in 1989 as the Government undertook a massive campaign aimed at corruption and petty economic offenses.

Former political prisoners are often subjected to discriminatory treatment and are relegated to menial, intermittently available work, no matter what their education or experience. Their children may be harassed in schools and sometimes barred from higher or even technical education. There was evidence that this discrimination abated in recent years and that authorities were attempting to prevent the grosser forms of discrimination from being exercised against departing immigrants as well. Human rights activists report frequent incidents of threats and harassment by government officials. Cubans have no right to receive publications from abroad and can expect all correspondence with foreign countries to be carefully monitored.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Cuban authorities continue to place very extensive checks and controls on freedom of expression. The Government does not allow direct criticism of the "Revolution," e.g. the basic policies and Marxist-Leninist orientation of the Government, party or leadership. Laws are enforced against antigovernment "propaganda," antigovernment grafitti, and slander or insults against government officials. Local CDR's monitor and report on expressions of dissent or criticism.

The electronic and print media are owned by the State or party-controlled organizations and operate according to party

guidelines. No public forum exists for airing one's views apart from the government-controlled media. In 1989 as in previous years, the Government used the media as a vehicle to indoctrinate the population. Cuban media content reflected government views of events and stories tend to congratulate the Government for internal successes, primarily economic ones. By comparison, Cuban media coverage of Eastern European developments was terse but straightforward.

In 1989, the Government moved to shut down new dissident efforts to publish independent newsletters. Thirteen members of the Cuban Human Rights Party were arrested for printing and distributing several issues of its new bulletin Franqueza (Openness). Manuel Gonzalez, Manuel Gonzalez, Sr., and Iris Perez received prison sentences ranging from 6 months to 1 year for producing Franqueza. Copies of a second, unsigned dissident newsletter, El Lente (The Lens), appeared sporadically during the year.

Cuban censorship of foreign media in 1989 expanded to include reform-minded Soviet publications. In August the Cuban party leadership announced it was removing two Soviet journals, Sputnik and Moscow News, from circulation. The Cuban Communist Party newspaper Granma justified the journals' ban from circulation by citing their "negative consequences" among the Cuban populace. Periodicals from non-Communist countries are not available to the general public, and foreign broadcasts, apart from U.S.-based Radio Marti, are not heard by significant numbers of people.

The Government extended its intimidation to the foreign press on several occasions in 1989. A group of U.S. journalists covering the July 26th celebrations reported being warned that foreign journalists who visit Cuban dissidents or who report about them could jeopardize their stay in Cuba and issuance of future visas. The Reuters correspondent in Havana was expelled from Cuba in July for publishing a report the Government found unacceptable.

Artistic and literary freedom are circumscribed by government control. Party and government officials carefully scrutinize humor and irony in the arts. In 1989 one art exhibition containing pictures which unflatteringly portrayed President Castro was closed. A Vice Minister of Culture barred from public display a painting which depicted Castro speaking to a crowd whose faces were all identical to his.

Academic freedom is severely limited. Education is the exclusive prerogative of the State, and the school system follows Marxist-Leninist precepts as interpreted by government guidelines. Academics can write freely so long as their work does not conflict with any government or party policy.

b. Freedom of Peaceful Assembly and Association

The Constitution does not provide for freedom of assembly or association. Any assembly of more than three persons even in a private home is punishable by up to 3 months in prison and a fine. Organizers of "illicit or unrecognized groups" can receive a sentence of up to 9 months (Article 240 of the Penal Code).

There was no known instance in 1989 of authorities approving any public meeting by a group not recognized by the Government. On the contrary, the Government continued its crackdown

begun in October 1988 on dissidents seeking to hold meetings or to organize demonstrations. During Soviet leader Gorbachev's visit to Havana in April, at least 21 activists were arrested in connection with a planned demonstration. Four Cuban Human Rights Party members received sentences of from 3 to 9 months for "planning an illegal gathering" (see Section 1.e.).

Article 208 of the Penal Code prohibits "illegal or unrecognized groups." The Ministry of Justice, in consultation with the MININT, determines the legality of all organizations. Apart from "recognized" churches and one or two groups such as the Masonic Order which are carefully monitored by authorities, the small, unrecognized and thus illegal human rights groups represent the only associations independent of the State and the party. The authorities continued to ignore the applications for legal recognition made by the Cuban Commission for Human Rights and National Reconciliation and the Cuban Human Rights Committee over the past 3 years.

Cuban citizens are expected to join party-controlled mass organizations, such as the CDR's, the Confederation of Cuban Workers, the Federation of Cuban Women, and the Union of Communist Youth. Resisting membership makes persons subject to a range of unofficial sanctions.

For a discussion of freedom of association as it applies to labor unions, see Section 6.a.

c. Freedom of Religion

The Government places restrictions on the practice of religion and discriminates against believers, despite the Constitution's recognition of the rights of citizens to profess and practice any religious belief. Religious believers are excluded from membership in the Communist Party and thus from almost all executive and leadership positions, including posts in the Government, the courts, and the teaching profession. Persons who publicly profess their religious beliefs may be subject to informal discrimination in the workplace and through social pressures on their children in school. Practicing Catholics, for instance, have a difficult time getting more desirable jobs or being admitted into certain fields of study.

Fidel Castro and other Cuban officials have publicly admitted that religious discrimination exists, although they claimed it was not authorized. Indeed, there has been a perceived slight relaxation of official attitudes toward religion which contributed to modest increases in both church attendance and baptisms. Catholic Church officials noted in 1989 a growing number of youths willing publicly to profess their faith.

The Government and Communist Party continued to maintain restrictions and controls on the activities of organized churches. Churches and other religious groups must register with the Government and be "recognized." Recognized faiths customarily are permitted to hold religious activities only within specifically designated places of worship, but permission was granted for services in prisons and some health care institutions in 1989. Many Catholic and Protestant churches have closed, and new construction has been restricted since the Revolution. Four Protestant and two Catholic seminaries are allowed to operate, but no other formal

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religious training schools are permitted. Atheism is taught by youth organizations. Churches have no access to official mass media. The observance of religious holidays is difficult, and most traditional processions are prohibited. Christmas is a normal workday.

Despite these restrictions, relations between the Government and recognized churches have improved since the mid-1980's. In 1989 the Government demonstrated a greater willingness to establish a dialogue with church leaders, and President Castro welcomed the prospect of a future papal visit to Cuba. The Government slightly expanded the ad hoc exceptions it granted in 1988 to recognized churches: admission of foreign clergy to work in Cuba, greater tolerance for religious instruction, freedom for clergy to travel abroad, permission for the importation of increased quantities of Bibles, and freedom to hold conventions. While churches have been granted exceptions, they have not been conceded "rights".

Since April, clergy have been allowed to visit prisoners who have requested their services. The Catholic Church established telex links among its diocesan offices and with church officials overseas as authorized by the Government in 1988. The Seventh-Day Adventist church held a national congress in Cuba, and foreign Adventist officials were permitted to attend in their official capacity. The small Jewish community was again allowed to import religious materials, and kosher food and wine. Cuban authorities, while clamping down on other unauthorized publications in 1989, continued to permit limited circulation of an independent newsletter published by a Catholic layman. The Government allowed access to construction materials needed to rebuild some existing churches, but provincial and local officials have opposed certain restoration projects. In December 1988 in Palma Soriana, a parish priest, with the help of his congregation, succeeded in restoring and reopening a small chapel. Local party officials organized a mob to break up the inaugural service. When the priest managed to defuse the protest by leading the crowds outside the church in the national anthem, he was detained by police for "proselytizing and holding a service in public" and released hours later only after vigorous public protest.

Members of certain faiths have suffered active persecution. Human rights monitors reported several cases of Jehovah's Witnesses arrested for illegal meetings and possession of clandestine publications (i.e., Jehovah's Witnesses tracts) in 1989, including the cases of Ursulo Brito and Samuel Camacho Hernandez (sentenced to 6 months in prison), and of Eloy Ramos Gonzalez (sentenced to 1 year). In April police reportedly infiltrated a Jehovah's Witnesses prayer meeting in Suri and staged a raid on the home of Felipe Bofill where prayers where being offered for Bofill's gravely ill son. Several persons were arrested, tried, and convicted of charges of "illegal meeting and possession of clandestine printing."

Other religious groups also suffer such repression; in a raid in December 1988 reported by the Cuban Human Rights Committee, the home of Baptist pastor Eliejar Samado Cazavus of Granma was ransacked and religious literature confiscated. Samado subsequently lost his job and was forced to rely on small donations from his congregation to support his family.

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d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

There are no legal restrictions on domestic travel, but Cuban citizens require permission both to leave and to reenter Cuba. Opportunities for nonofficial foreign travel are severely restricted, limited generally to elderly pensioners, church officials, and special humanitarian cases for serious family illness or death.

Cuban authorities strictly control emigration but in 1989 again permitted several thousand persons, including hundreds of former political prisoners, to leave the country permanently with no right of return. Draft-age males were generally not allowed to depart. During 1989 the Government continued to deny, without any explanation, exit permission to some persons and their immediate families who had already been accepted into immigration and refugee admissions programs of other countries. For example, the Government has repeatedly refused exit permission to Sebastian Arcos Cazabon, the son of human rights leader Sebastian Arcos Bergnes.

It is a crime to leave the country without authorization. Persons who attempt to flee on small boats or inner tubes face sanctions ranging from fines to 3 years' imprisonment. The number of persons convicted of "illegal" departure reportedly rose sharply in 1989 (see Section 1.e.). Discrimination against intending legal emigrants lessened in 1989, although extricating a family from the web of state employment, housing, and education remains a complex and often frustrating process. Once emigration formalities are completed, all family possessions and property go to the State unless immediate relatives are able to take possession.

Cubans traveling as emigrants or refugees to other countries have no right to return for a visit or repatriation. The Government continued to restrict the number of persons of Cuban origin from the United States permitted to visit their families in Cuba to 50 persons per week under a worldwide quota of 5,000 per year. Persons who came to the United States in the Mariel boatlift were routinely denied repatriation and the Cuban Government allowed no more than 10 of them per week to visit Cuba. Entry into Cuba by Cuban Americans was suspended entirely for the last quarter of 1989. The Government reduced to $250 per trip the amount of currency visiting expatriates can bring to family members in Cuba.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Cuban citizens have no legal right to seek to change their government or even to advocate this right. The only political organization allowed in Cuba is the Communist Party. The overlapping party and state hierarchy has remained largely unchanged for 30 years. Members of the highest governing bodies, the Politburo and the Central Committee, are selected by a small group of party leaders. Although direct elections are held to fill municipal offices, the provincial assemblies and the National Assembly are elected indirectly. Only the party and its affiliated mass organizations have the right to distribute political materials or to organize electoral meetings. All candidates must, in effect, be approved by the Communist Party. In March, dissident Roberto Bahamonde challenged the system and ran against the Communist Party

candidate for a municipal assembly seat in Havana. Bahamonde lost and was imprisoned on other charges several weeks later (see Sections 1.d. and 1.e.).

In December 1988, 163 European and American intellectuals joined Cuban expatriates in signing an open letter calling for a plebiscite on Fidel Castro's rule, following the October 1988 example of Chile. One month earlier, the Cuban Human Rights Party had advocated a plebiscite on whether to repeal the Constitution and convoke a constituent assembly. Government officials rejected the call for a plebiscite and called the comparison with Chile "absurd."

In 1989 Fidel Castro distanced Cuba from democratizing trends sweeping through the U.S.S.R. and Eastern Europe, rationalizing his continued unwillingness to allow greater opportunities for Cuban citizens to participate freely in the political system.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

Domestic human rights monitors are legally unrecognized and lead a precarious existence dependent upon the vagaries of government policy. The Government continued, in violation of its own statutes, to refuse to recognize the applications for legalization submitted in 1988 and 1989 by several such groups (see Section 2.b.). In its 1988/89 Annual Report, the IACHR called on the Government to recognize human rights associations and their right to engage in their activities freely. The three principal domestic human rights monitoring groups are the Cuban Human Rights Committee (CCPDH), the Cuban Human Rights Party (PPDHC) and the Cuban Commission for Human Rights and National Reconciliation (CCDHRN). There is a host of smaller human rights-related groups, most notably the Free Art Association (APAL) and the Marti Committee for Human Rights, which appeared in 1988. In February 1989, the PPDHC, CCDHRN, and Marti Committee for Human Rights banded together under an umbrella group, the Coordinator of Human Rights Organizations.

The Government's stepped-up crackdown on Cuba's human rights movement was the most significant development in the country's human rights situation in 1989. Official policy changed from increasing limited tolerance through mid-1988 to repression after the September 1988 visit of the UNHRC Cuba Working Group. Since then, the Government has taken or fabricated opportunities to harass, detain, or imprison approximately 50 activists and has, in effect, silenced many of its leading domestic critics. Some of the arrested activists had presented testimony to the UNHRC Cuba Working Group, although their arrests were officially for alleged actions unconnected with their testimony. The UNHRC delegation was assured by Cuban authorities that the witnesses would not suffer reprisals for their testimony. About 25 of those activists arrested or detained, including the leaders of four of the five human rights groups named above, remained imprisoned or held without charge at year's end (see Section 1.d.).

The atmosphere of increased openness leading up to the UNHRC's visit led some human rights activists to attempt to exercise what they viewed as their rights to peaceful assembly and speech. The Government responded with the pattern of arrests, swiftly staged trials, and misdemeanor convictions which began

with the October 1988 arrest of six APAL activists and the November 1988 arrest of PPDHC leader Tania Diaz Castro.

In 1989 the Government further clamped down as activists continued to test the limits of its tolerance by circulating petitions and underground publications and, in one case, trying to organize a demonstration. Cuban authorities appeared to follow legal procedures more scrupulously, but imposed harsher punishments. Elizardo Sanchez's 2-year prison term was the harshest sentence meted out to a human rights activists in several years (see Section 1.e. for details on dissident trials). Extralegal harassment continued as well. Several human rights activists were beaten by thugs and at least eight others were arrested during a November 12 mass; incorrect rumors had circulated that prayers would be said at the mass to support hunger striking political prisoner Alfredo Mustelier. By the close of 1989, members of the human rights movement who were not in jail had reduced their public activities because of government repression.

The ICRC was the only monitoring group which visited Cuba in 1989. Cuban authorities permitted the ICRC to make a second annual visit to prisons and to monitor conditions of inmates. The ICRC, whose findings are strictly confidential, did report that its delegation interviewed 257 prisoners in 10 detention centers, including the Havana Psychiatric Hospital. The Government denied permission to representatives from AW and AI to attend the trial of human rights leader Elizardo Sanchez.

Following its September 1988 visit, the UNHRC Cuba Working Group submitted a 400-page report to its parent commission in February 1989. The report detailed extensive human rights abuses by Cuba and noted numerous outstanding questions posed by the Working Group which Cuban authorities had failed to answer. The UNHRC, at its 1989 session, passed a resolution charging the U.N. Secretary General to maintain a dialogue with the Cuban Government in order to follow up on outstanding issues in the Working Group's report. Cuban authorities (who, under international pressure in 1988, had invited the Working Group to visit) made it clear in their 1989 public statements that, notwithstanding the content of the report, they considered international attention to Cuban human rights practices to be a closed chapter.

Section 5 Discrimination Based on Race, Sex, Religion, Language, or Social Status

Cuba is a multiracial society with a large population of persons with mixed racial ancestry. The Constitution expressly forbids discrimination on the basis of race, sex, or national origin, and there were no known incidents of direct racial or sexual discrimination in 1989. The Family Code of 1975 equalized pay scales, eliminated sexual discrimination in promotions, provided generous maternity leave, and gave employed women preferential access to goods and services. Public or official expressions of racial discrimination or prejudice are rare. The official women's organization, the Federation of Cuban Women, is used to mobilize women politically rather than to advocate women's rights exclusively.

There are no official data available on the incidence of violence against women. Neither the Government nor society condone such violence. Cuban law establishes strict penalties for sexual abuse or rape of women, including the death penalty for the rape of minors or serious injury to the victim. The

Penal Code also provides lesser sanctions for sexual coercion of women by authorities or guardians. These statutes appear to be enforced with typical severity by the authorities, although sexual crimes are never reported in the press. Anecdotal evidence from human rights groups and other sources indicates that domestic violence such as wife beating is a problem, but a lack of statistical data makes it impossible to gauge its true extent. Due to societal traditions many victims of abuse are reluctant to file a report or to press charges, so it is likely that cases of violence are significantly underreported. Women complain of verbal harassment in public and expected subordination at home.

Section 6 Worker Rights

a. The Right of Association

The Constitution gives priority to state or collective needs over individual choices regarding free association or provision of employment; the decision and choices of workers are subordinate to the "demands of the economy and society" (Article 44). Strikes are not permitted under the law. Established Cuban labor organizations are not trade unions in any real sense and do not act as a voice for workers' rights, including the right to strike. Labor is organized under the control of the State and party through one umbrella group, the Confederation of Cuban Workers (CTC). The CTC is affiliated with the Communist-controlled World Federation of Trade Unions and its regional organization, the Permanent Congress of Trade Union Unity of Latin America (CPUSTAL). The CTC serves primarily as an instrument of the State to enforce political and labor discipline, to encourage productivity, to hold down labor costs, and to save raw materials. Some CTC member labor organizations have served as debating forums for the consideration of a limited range of labor issues such as worker safety and local working conditions.

The right to form an independent union is prohibited and even discussion of such a step has been subject to punishment. Despite increased repression of many dissident groups in 1989, however, several embryonic labor organizing groups appeared and discussed the need for autonomous representation of workers' interests along the lines of the Solidarity movement in Poland. Two of these groups, the Independent Trade Union Movement and the Free Trade Union, claimed to have gathered membership in workplaces in the capital region. These tiny groups remain very much on the margins, and even the discussion of independent unions is a dangerous form of dissent, often characterized by authorities as a form of "industrial sabotage." In August Havana ironworker Ricardo Figueira Castro, a member of the CCPDH, was arrested and charged with enemy propaganda. Figueira had unsuccessfully sought a position in his factory's official union with the idea of making it more responsive to workers' needs. Nevertheless, he began to represent workers' interests informally with management and to speak out about the need for more independent representation with coworkers. Figueira's arrest soon followed.

In its 1989 report, the International Labor Organization (ILO) Committee of Experts (COE) again challenged the trade union monopoly granted to the CTC in violation of Convention 87 on Freedom of Association. The Committee asked the Government to report what steps it is taking to bring its legislation into conformance.

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b. The Right to Organize and Bargain Collectively

Effective collective bargaining does not exist. The State Committee for Work and Social Security sets wages and salaries for the state sector. There are no known export processing zones in Cuba. Since the CTC is an instrument of the government policy, antiunion discrimination is not a relevant concept except as it applies to the Government's repression of independent union groups like those mentioned above.

c. Prohibition of Forced or Compulsory Labor

The Constitution and the Labor Code do not contain prohibitions on forced labor. Workers do not have full freedom to change jobs without official approval. Every worker must present a work identification card in seeking a new job. This card contains information on performance of "voluntary" work, protection of socialist property, political consciousness, failure to meet production goals, and negligence. In practice, any job change remains under the control of the authorities who grade and evaluate employee records that form the basis of the work identity cards.

Special groups of workers on loan from other jobs known as "microbrigades" are employed on special construction projects, often working a 60- to 70-hour week of physical labor. Some human rights monitors allege that workers refusing to "volunteer" for such projects often find themselves victims of discrimination or even risk losing their jobs. "Microbrigade" workers, however, are reportedly rewarded with priority listing for apartments, a very powerful incentive for voluntary work.

Various ILO bodies have found that governmental restrictions on the freedom to choose or change employment are incompatible with ILO Conventions prohibiting forced labor. Most recently, the 1989 report of the ILO Committee of Experts, cited above, found provisions of the new labor code imposing "correctional labor," and compulsory labor for damage due to negligence, to be incompatible with Convention 105 on forced labor.

d. Minimum Age for Employment of Children

The legal minimum working age is 17; however, the labor code provides for exceptions for those aged 15 and 16 to obtain training or to fill labor shortages. There is no evidence that authorities deviated from these rules in 1989. However, all students above the age of 11 are expected to devote 30 to 45 days of their summer vacations to agricultural work up to a maximum of 8 hours per day.

e. Acceptable Conditions of Work

During 1989 Cuba's minimum wage remained at $140 per month at the overvalued official exchange rate or about $20 in terms of black-market buying power, plus a "social wage" consisting of free medical care and education, along with subsidized housing and rationed food. Even with the state subsidies, a worker needs to earn substantially more than the minimum wage to support a family. The value of the "social wage" in improving living standards is diminished by the persistent shortages and tight rationing that have become standard features of the Cuban economy. For example, most newly married couples must live with relatives for years before obtaining their own housing and the supression of free farmers' markets in 1986

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(following a brief experiment with market incentives) exacerbated shortages of some foods, although caloric intake remains high.

Maximum hours of work are 44 regular hours per week, with shorter workdays for unusually demanding jobs such as underground mining. Overtime is limited by law and practice, although workers are pressured to engage in additional unpaid "voluntary" labor. Workers receive 30 calendar days of vacation regardless of seniority or age. Provisions for worker safety and control of pollution generally appear inadequate. There is a lack of effective control and enforcement mechanisms to ensure worker safety, and industrial accidents are apparently frequent.